

INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "SMC-2": NEW DELHI

**BEFORE SHRI H. S. SIDHU, JUDICIAL MEMBER**  
**AND**  
**SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER**  
(Through Video Conferencing)

ITA No. 5819/Del/2019  
(Assessment Year: 2013-14)

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|---|-----|----------------------------------|
| M/s Creative Ideas,<br>B-304, New Friends Colony,<br>New Delhi-110 065.<br><b>PAN: AAGFC4306H</b> | Vs. | ITO,<br>Ward-28(4),<br>New Delhi |
| (Appellant)   |     | (Respondent)                     |

|                       |   |
|-----------------------|---|
| Assessee by :         | <b>Shri C. S. Aggarwal, Sr. Advocate;</b> |
| Revenue by:           | <b>Shri R. K. Gupta, Sr. D. R.;</b>       |
| Date of Hearing       | <b>04/11/2020</b>                         |
| Date of pronouncement | <b>02/12/2020</b>                         |

**ORDER**

**PER PRASHANT MAHARISHI, A. M.**

1. This appeal is filed by M/s Creative Ideas, New Delhi (the Appellant) for Assessment Year 2013-14 against the order of the CIT (Appeals)-10, New Delhi dated 15.05.2017 in appeal filed by the assessee against the assessment order passed under Section 143(3) of the Income Tax Act, 1961 (the Act) by Income Tax Officer, Ward 28(4), New Delhi, dated 18.02.2016 was challenged wherein an addition of Rs.5,02,600/- was made and the ld. CIT (Appeals) upheld the disallowance to Rs.3,85,548/-. This is the solitary ground of appeal.
2. The brief facts of the case show that assessee is a partnership firm engaged in the business of export of high fashion ladies garments. It filed its return of income on 30.09.2013 declaring total income of Rs.10,80,050/-. The case was fixed up for scrutiny and the learned Assessing Officer noted that assessee has claimed the expenses of communication of Rs.2,97,001/-, travelling and conveyance of Rs.45,44,356/-, depreciation on car Rs.1,72,986/- and insurance on car of Rs.11,660/-. These expenses totaling to Rs.50,26,000/- was examined and held that those are not fully allowable to the assessee. The ld. AO disallowed 10% of such expenses amounting to Rs.5,02,600/- for the reason that it is 'in the interest of Revenue and to avoid

leakage of revenue”. Accordingly, total income of the assessee was assessed at Rs.16,05,970/-.

3. Assessee preferred appeal wherein the ld. CIT (Appeals) deleted the disallowance partly, but upheld to the extent of Rs.3,85,548/-. Therefore, assessee is in appeal before us.
4. We have heard learned Sr. Advocate, Shri C. S. Aggarwal on behalf of assessee and Shri R. K. Gupta, Sr. DR on behalf of the Revenue.
5. We have carefully considered rival contentions and perused the orders of the ld. Assessing Officer and ld CIT (A). Before the ld. AO the assessee appeared and furnished the details required which were examined by the AO and placed on record. Such is the finding of the ld. AO in para No. 1 of the assessment order. The ld. AO despite examining the requisite details could not point out instances of expenses which are not allowable to the assessee. The AO gave the reason to make an ad-hoc disallowance of 10% of the expenditure “in the interest of Revenue and to avoid the leakage of revenue.” We do not find any such provision in the Act for disallowing an expenditure for this reason. The ld. CIT (Appeals) looked at the ledger of tour and travel expenditure and found that assessee has claimed expenditure of Rs.38,55,479/-. He noted that there are several payments which are made in cash, besides, there are several items of expenses in respect of travelling expenses of the partner to various international destinations. Therefore, he upheld the disallowance of 10% of the expenditure amounting to Rs.3,85,548/-. We are not agreeable with the finding of the ld. CIT (Appeals) because unless there is a violation of provision of Section 40A(3) of the Act cash expenditure cannot be disallowed and further assessee is engaged in the business of export therefore, there can be travelling expenditure allowabale to foreign destination of partners. Therefore, travelling expenditure of the partner to foreign destinations are allowable unless there is a specific finding that those are personal expenditure, then same cannot be allowed. There is no such finding by ld CIT (A). In view of this we reverse the findings of the lower authorities and direct the ld. Assessing Officer to delete the disallowance of Rs.3,85,548/-. Accordingly ground No. 1 of the appeal of the assessee is allowed.
6. In the result, appeal of the assessee is allowed.

Order pronounced in the open court on : 02/12/2020.

Sd/-  
( H. S. SIDHU )  
JUDICIAL MEMBER

Sd/-  
(PRASHANT MAHARISHI)  
ACCOUNTANT MEMBER

Dated : 02/12/2020.

\*MEHTA\*

Copy forwarded to :-

1. Appellant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR  
ITAT, New Delhi

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| Date of dictation   | 27.11.2020 |
| Date on which the typed draft is placed before the dictating member                   | 27.11.2020 |
| Date on which the typed draft is placed before the other member                       | 02.12.2020 |
| Date on which the approved draft comes to the Sr. PS/ PS                              | 02.12.2020 |
| Date on which the fair order is placed before the dictating member for pronouncement  | 02.12.2020 |
| Date on which the fair order comes back to the Sr. PS/ PS                             | 02.12.2020 |
| Date on which the final order is uploaded on the website of ITAT                      | 02.12.2020 |
| date on which the file goes to the Bench Clerk  | 02.12.2020 |
| Date on which the file goes to the Head Clerk   |            |
| The date on which the file goes to the Assistant Registrar for signature on the order |            |
| Date of dispatch of the order   |            |