

IN THE HIGH COURT OF DELHI AT NEW DELHI 10.08.2009

Present: Ms. Sonia Mathur for the appellant

ITA No. 512/2009 NITCO MARBLE & GRANITE PVT. LTD.

Following questions of law are proposed to be raised in this appeal:

A. Whether on the facts and in the circumstances of the case, the Tribunal was justified in law in upholding the order of CIT (A) deleting the disallowance of Rs.13,74,132/- made by the assessing Officer on account of expenditure on foreign tour undertaken by the director?

B. Whether the ITAT was justified in law in upholding the order of CIT(A) deleting the disallowance of Rs.1,69,173/- made on account of employee/employer's contribution of ESI and PF under Section 43B?

Insofar as second question is concerned the same is covered by judgment of this Court in CIT vs. M/s Nitco Marble and Granite Pvt. Ltd. , ITA No.497/2005 which was the case of the assessee itself. In this case while dismissing the appeal of the Revenue this Court referred to detailed judgment passed by it in CIT vs. Dharmendra Sharma in ITA No.644/2007 decided on 28.11.2007. Insofar as the first question is concerned, we are of the opinion that the Tribunal rightly upheld the order of CIT(A) observing that it was not necessary for the assessee to show that the assessee had exported goods to the country where he visited, viz. U.S.A., Dubai and U.K. and incurred the travel expenses. It is not a case that the expenses incurred were bogus. Merely because the assessee did not have exports to these countries in that year travelled by the director, the Tribunal opined that it could not be said that expenditure on foreign tours is not in connection with the business of the assessee. There can be a foreign travel with expectation to generate business from those countries. It being a pure finding of fact needs no interference and no question of law arises.

Dismissed.

A.K.SIKRI, J

VALMIKI J.MEHTA, J

August 10, 2009

