



ITA No.261/Mum/2019  
Rajesh Rajkumar Nagpal  
Assessment Year :2014-15

**आयकर अपीलीय अधिकरण “डी” न्यायपीठ मुंबई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“D” BENCH, MUMBAI**

**माननीय श्री अमरजीत सिंह, न्यायिक सदस्य एवं**  
**माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।**  
**BEFORE HON’BLE SHRI AMARJIT SINGH, JM AND**  
**HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM**

आयकर अपील सं./ I.T.A. No.261/Mum/2019  
(निर्धारण वर्ष / Assessment Year: 2014-15)

<b>Rajesh Rajkumar Nagpal</b> 108-109, Neelkanth Building 98, Marine Drive, Mumbai.	<b>बनाम/</b> <b>Vs.</b>	<b>ACIT-18(3)</b> Aaykar Bhavan Mumbai.
स्थायी लेखासं./जी आइ आर सं./PAN/GIR No. <b>ACOPN-6090-K</b>		
(□ पीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

<b>Assessee by</b>	:	Shri H.S. Raheja- Ld. AR
<b>Revenue by</b>	:	Ms. Jyoti Lakshmi Nayak-Ld.DR

<b>सुनवाई की तारीख/</b> <b>Date of Hearing</b>	:	12/02/2020
<b>घोषणा की तारीख /</b> <b>Date of Pronouncement</b>	:	16/03/2020

**आदेश / O R D E R**

**Manoj Kumar Aggarwal (Accountant Member)**

1. Aforesaid appeal by assessee for Assessment Year [in short referred to as ‘AY’] 2014-15 contest the order of Ld. Commissioner of Income-Tax (Appeals)-53, Mumbai, [in short referred to as ‘CIT(A)’], *Appeal No. CIT(A)-53/IT-395/ACIT-18(3)/2018-19* dated 14/12/2018 on following grounds: -



1. On the facts and in the circumstances of the case and in law the Commissioner of Income Tax Appeals was not justified in confirming the addition of a sum of Rs.1,21,201/- (made by the Assessing Officer as Deemed Dividend) as the personal expenses of the appellant incurred by the Company disregarding the fact that the same were reimbursements received by the appellant from the company for expenses incurred by the appellant for and on behalf of the company which expenses were for the benefit of the company and not in the nature of personal expenses of the appellant.
2. The appellant submits that the Commissioner of Income-tax Appeals has failed to appreciate the declaration by the Company that the expenses have been incurred in the course of the business of the company and have been claimed by the company in its tax returns and the same have also been allowed as business expenditure in the hands of the company.
3. The appellant submits that the nature of expenses clearly shows the same as being for the benefit of the business of the company and not in the nature of personal expenses and prays that the addition be deleted”

As evident, the sole subject matter of appeal is addition of Rs.1.21 Lacs.

2. We have carefully heard the submissions made by both representatives. We have also perused material on record. Our adjudication to issue raised in the appeal would be as given in succeeding paragraphs.

3. Facts on record would reveal that the assessee being resident individual was assessed for year under consideration u/s 143(3) on 28/11/2016 wherein it was saddled with addition of deemed dividend u/s 2(22)(e) for Rs.1.21 Lacs. The reason to make the stated addition was the fact that the assessee held 22% shares of an entity namely *M/s Piem Hotels Ltd.* (PHL) It was noted that payment of Rs.1.21 Lacs was made by the said entity for Citibank Credit Card held by the assessee. Therefore, it was alleged that the company was making some kind of advances to the assessee in the form of credit card balance, from which he was incurring the expenses. Accordingly, the said payment was treated as deemed dividend u/s 2(22)(e) and added to the income of the assessee.



4. Before learned CIT(A), the assessee submitted that the assessee was receiving salary and commission from M/s PHL. It was explained that most of the credit card expenses were paid for by the assessee himself from his own bank account except for certain items of expenses which were incurred by the assessee but paid by the said company. These expenses were incurred for and on account of the company and were on account of renewal of membership of the Entrepreneurs organization, USA, covering case for Apple Ipad provided by the company to the assessee for official use and Matrix Card for international roaming mobile expenses during foreign travel for professional work. Therefore, it was submitted that the provisions of Sec.2(22)(e) were not, at all, applicable. The Ld. CIT(A) agreed with the said submission but ultimately concluded that it would be personal expenses for assessee which is met by M/s PHL and therefore, the addition would have to be confirmed. Aggrieved, the assessee is under further appeal before us.

5. Upon due consideration of factual matrix as enumerated hereinabove, we find that as rightly held by Ld. CIT(A), the provisions of Sec.2(22)(e) were not applicable since the payment was mere reimbursement of expenditure by M/s PHL. However, Ld. CIT(A) proceeded on wrong footing that the same would be personal expenditure and hence, disallowable completely overlooking the fact that the said expenditure has never been claimed by the assessee anywhere while computing his income. The said expenditure was booked as business expenditure by M/s PHL. Therefore, the impugned additions could not be sustained. By deleting the same, we allow the appeal.



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6. The appeal stands allowed.

*Order pronounced in the open court on 16<sup>th</sup> March, 2020.*

**Sd/-**

**(Amarjit Singh)**

न्यायिक सदस्य / **Judicial Member**

**Sd/-**

**(Manoj Kumar Aggarwal)**

लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 16/03/2020  
Sr.PS, Jaisy Varghese

**आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त(अपील) / The CIT(A)
4. आयकरआयुक्त/ CIT– concerned
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

**आदेशानुसार/ BY ORDER,**

**उप/सहायक पंजीकार (Dy./Asstt.Registrar)**  
**आयकरअपीलीयअधिकरण, मुंबई / ITAT, Mumbai.**