

**THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'A', NEW DELHI**

**Before Dr. B. R. R. Kumar, Accountant Member
Sh. Yogesh Kumar US, Judicial Member**

ITA No. 3844/Del/2019 : Asstt. Year: 2014-15

Bharat Anand, 1, Jaipur Estate, Nizamuddin East, New Delhi-110013 (APPELLANT)	Vs.	ACIT, Circle-63(1), New Delhi-110002 (RESPONDENT)
PAN No. AKYPA2495D		

**Assessee by : Sh. B. K. Anand, CA
Revenue by : Sh. Kavv Bali, Sr. DR**

Date of Hearing: 06.06.2023 Date of Pronouncement: 08.06.2023

ORDER

Per Dr. B. R. R. Kumar, Accountant Member:

The present appeal has been filed by the assessee against the order of Id. CIT(A)-42, New Delhi dated 20.02.2019.

2. The assessee has raised the following grounds of appeal:

"1. That the Authorities below erred on the facts of the case in disallowing Rs.22,48,117/- in respect of Business Promotion expenses.

2. That the Authorities below erred on the facts of the case in disallowing Rs. 15,31,511 in respect of Tour & Travel expenses.

3. That the Authorities below erred in not considering that the expenses incurred by the assessee on Business Promotion and Tour & Travel were for the advancement of his professional activity and incurred solely in respect of his income from the firm where he was partner, as the assessee had no other income

assessable under the head Income from Business or Profession and it is not their case that such expenses were "personal expenses" of the assessee."

Business Promotion Expenses and Tour & Travel Expenses:

3. As per the revenue, in the instant case, two major expenses have been incurred across the years which include Business & promotion expenses (31% of total expenditure) and Tour & travel expenses (21% of expenses). The revenue held that the appellant is partner in Khaitan & Co, LLP and contractual arrangement with KCO, hence there is no justification to claim expenses in the nature of 'business & promotion' and 'Tour & travel'.

4. The revenue held that any 'business and promotion expenditure' is required to be incurred either by KCO or KAHITAN & Co., LLP because the business is run by the aforesaid entities. The revenue held that the appellant has claimed the expenditure against the receipt from KCO where the relationship is of only contractual in nature, if any and in such a situation, there is no binding on the appellant to incur expenditure either on 'business & promotion' or 'on Tour & travel'. Hence, the expenses like Conveyance, courier/postage, electricity, journal, lease, printing & stationery, security guard, salary to staff, staff welfare, telephone, vehicle running & maintenance etc. claimed in profit & loss are admissible as deduction under section 37 of the act, have been disallowed.

5. We have gone through the partnership deed of Kaithan & Co. LLP for the period 01.04.2013 to 30.09.2013 and for the period 01.10.2013 onwards. We find that the assessee is in

whole time practice of his profession as an advocate. He joined the Firm Khaitan & Co. Advocates & Solicitors, at their office in New Delhi as a Partner. The Firm was later converted into a LLP and named changed to Khaitan & Co. LLP. Any professional work the assessee undertakes is for the said Firm. Further, as per the terms Partnership of the Firm the assessee cannot carry on any other professional or other similar activity because if he derives any income outside the activity of the Firm, he is to account it to the Firm. KCO being an associate entity of the firm Khaitan & Co LLP, he is engaged in professional assignments for them but this flow as part of his activity being a partner of the Firm and there exists no relationship in the nature of employer and employee between him and KCO. The income therefore is a part of his total professional income whether as partner's salary, interest on capital balance in the firm, share in profit or amount remitted as professional remuneration. Accordingly, the amount of remuneration received by the assessee from KCO is in the course of his discharge of his professional duties as a partner of Khaitan & Co. LLP and is not arising out of any independent agreement or employment between him and the said entity. The assessee has accordingly claimed expenses on his total professional earnings irrespective of the bifurcation that has been made because it does not affect the net assessable income as determined and returned. Hence, the appeal of the assessee is liable to be allowed.

6. In the result, the appeal of the assessee is allowed.

Order Pronounced in the Open Court on 08/06/2023.

Sd/-

(Yogesh Kumar US)
Judicial Member

Dated: 08/06/2023

Subodh Kumar, Sr. PS

Copy forwarded to:

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

Sd/-

(Dr. B. R. R. Kumar)
Accountant Member

ASSISTANT REGISTRAR

