

आयकर अपीलीय अधिकरण
दिल्ली पीठ "एस एम सी", दिल्ली
श्री विकास अवस्थी, न्यायिक सदस्य

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "SMC", DELHI
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER
आअसं.3516/दिल्ली/2025 (नि.व. 2018-19)
ITA No.3516/DEL/2025 (A.Y. 2018-19)

Atul Kumar Gupta,
3812/5, Kanhiya Nagar, Tri Nagar,
Delhi 110035
PAN: AGGPG-9567-J
बनाम Vs.

..... अपीलार्थी/Appellant

Income Tax Officer, Ward-43(1),
Delhi

..... प्रतिवादी/Respondent

अपीलार्थी द्वारा/Appellant by : Shri Anil Sharma, Chartered Accountant
प्रतिवादीद्वारा/Respondent by : Ms. Sudha Gupta, Sr. DR

सुनवाई की तिथि/ Date of hearing : 29/07/2025

घोषणा की तिथि/ Date of pronouncement: : 24/10/2025

आदेश/ORDER

PER VIKAS AWASTHY, JM:

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [in short 'the CIT(A)'] dated 30.03.2025, for Assessment Year 2018-19.

2. Shri Anil Sharma, appearing on behalf of the assessee submitted that the assessee is a Chartered Accountant by profession and is a partner in M/s. A P R A & Associates LLP, Chartered Accountants. During the period relevant to assessment year under appeal, the assessee received remuneration of Rs.24,00,000/- from the aforesaid partnership firm. The assessee claimed expenditure of Rs.6,76,456/- on account of travelling expenses, telephone

expenses, depreciation, repair and maintenance, fuel expenses, driver salary, etc. and offered balance salary of Rs.11,62,424/- to tax. The Assessing Officer (AO) disallowed assessee claim of expenditure holding that professional expenditure is not allowable from the remuneration received by the partner. Aggrieved by the assessment order dated 03.03.2021, the assessee carried the issue in appeal before the CIT(A) but remained unsuccessful. Hence, the present appeal.

2.1. The Id. AR of the assessee submitted that the authorities below have erred in not considering the fact that the salary received by a partner of a firm is in the nature of business income. He referred to provisions of section 28(v) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act'), to contend that any interest salary, bonus, commission or remuneration by whatever name called received by partner from such firm is in the nature of business income. In support of his contention, he placed reliance on the decision of Hon'ble Supreme Court of India in the case of *CIT vs. Ramnik Lal Kothari*, 74 ITR 57. He further placed reliance on the decision of the Tribunal in the case of *Anil Gupta vs. ITO* in ITA No. 5645/Del/2023 for AY 2010-11 decided on 31.01.2014 and the decision of Tribunal in the case of *Aman Tandon vs. ACIT* in ITA No. 3469/Del/2015 for AY 2011-12 decided on 13.12.2019. The Id. AR also referred to the computation of income at page no. 228 to show that the salary received by the assessee from partnership firm has been offered to tax under the head Income from Business and Profession.

3. Per contra, Ms. Sudha Gupta representing the department vehemently defended the impugned order and prayed for dismissing appeal of the assessee.

4. Both sides heard, orders of the authorities below examined. The short issue in the present appeal is; Whether the assessee is eligible to claim business expenditure from salary received by the assessee from partnership firm?
5. The identical has been considered by the Division Bench of the Tribunal in the case of Anil Gupta vs. ITO (supra) wherein the assessee a Chartered Accountant had claimed business expenditure from remuneration received from partnership firm. The AO and the CIT(A) disallowed assessee's claim of such business expenditure from the salary received from the partnership firm. The Tribunal after considering the facts of the case and the decision of Hon'ble Apex Court in the CIT vs. Ramnik Lal Kothari (supra) allowed assessee's claim of expenditure.
6. Section 28(v) of the Act, allows any interest salary, bonus, remuneration by whatever name called received by a partner from the partnership firm to be treated as business income. Consequently, any expenditure incurred by the partner exclusively and solely for the purpose of earning such business income is an allowable expenditure u/s. 32 and 37 of the Act. The assessee has been claiming such expenditure from salary received from the partnership firm in the past. The Rule of consistency demands that if the expenditure in the nature of depreciation on motor car, etc. has been allowed to the assessee in the past, the same should be allowable in the subsequent assessment year as well. Thus, in light of the facts and provision of section 28(v) of the Act, I have no hesitation in holding that the expenditure incurred by the assessee wholly and exclusively for the purpose of business and profession is a allowable expenditure.

7. The Id. AR of the assessee submitted that business expenditure from salary was claimed by the other partner of partnership firm for the impugned assessment year. The AO allowed such expenditure in the case of other partner. Taking into consideration entire facts of the case and legal position, appeal of the assessee is **allowed**.

Order pronounced in the open court on Friday the 24th day of October, 2025.

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

दिल्ली/Delhi, दिनांक/Dated 24/10/2025

NV/-

प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. The PCIT/CIT(A)
4. विभागीय प्रतिनिधि, आय.अपी.अधि., दिल्ली /DR, ITAT, दिल्ली
5. गार्ड फाइल/Guard file.

BY ORDER,

//True Copy//

(Asstt. Registrar) ITAT, DELHI