

Export commission paid to NR agent via banking channel couldn't treated as unverifiable; allowable

Summary – The Mumbai ITAT in a recent case of Ram Prakash Joukani, (the Assessee) held that Foreign export commission paid through banking channels to foreign commission agent, who sold assessee's product in foreign countries, could not be disallowed as unverifiable

Facts

- The assessee had debited certain amount in his profit and loss account as foreign export commission paid to an agent in Indonesia who was selling the products of the assessee in Indonesia and also other countries.
- The Assessing Officer disallowed such amount holding that the entire foreign exchange commission was a fictitious expenses debited by the assessee to reduce tax liability; and that the assessee had neither given full details of the foreign export commission nor had given any reason for such payment.
- On appeal, the assessee contended that he was dealing in high fashion products whereby fashion changes very fast and the foreign commission agent guided him on the colour, texture and design, etc., and obtained the orders for him, and that the payments were made through banking channel, which was on record.
- The Commissioner (Appeals) allowed the appeal of assessee and concluded that it could not be said that the foreign export commission claimed by the assessee was unverifiable and, accordingly, directed the Assessing Officer to delete the disallowance.
- On revenue's appeal:

Held

- The Commissioner (Appeals) has concluded that the assessee has engaged foreign commission agent and has paid foreign export commission under the regulations of the RBI through banking channel at the rate of 12 per cent on which copies of invoices were furnished during the appellate proceedings. The Commissioner (Appeals) is quite justified in deleting the disallowance made by the Assessing Officer. There is no reason to interfere with the order of the Commissioner (Appeals).