

**IN THE INCOME TAX APPELLATE TRIBUNAL "E" BENCH, MUMBAI
BEFORE SHRI D. KARUNAKARA RAO, ACCOUNTANT MEMBER AND
SHRI C.N. PRASAD, JUDICIAL MEMBER**

I.T.A. No.5985/M/2014 (Assessment Year: **2006-2007**)

DCIT (LTU), World Trade Centre, Centre-1, 29 th Floor, Cuffe Parade, Mumbai – 400020.	बनाम/ Vs.	M/s. Tata Consultancy Services Limited, 9 th Floor, Nirmal Building, Nariman Point, Mumbai-20.
स्थायी लेखा सं./PAN : AAACR4849R		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओर से / Appellant by	:	Shri Sanjay Bahadur, CIT-DR
प्रत्यर्थी की ओर से/ Respondent by	:	Shri Firoze B Andhyarujina

सुनवाई की तारीख /Date of Hearing : 09.11.2016

घोषणा की तारीख /Date of Pronouncement : 18.11.2016

आदेश / O R D E R

PER D. KARUNAKARA RAO, AM:

This appeal filed by the Revenue on 25.9.2014 is against the order of the CIT (A)-24, Mumbai dated 24.6.2014 for the assessment year 2006-07. In this appeal, Revenue raised the following ground which reads as under:-

"On the facts and in the circumstances of the case and in law, the Ld CIT (A) erred in excluding the subscription fees paid to Tata Sons Ltd from 'fringe benefit' assessable u/s 115WB(2)(D) of the Act."

2. At the outset, Ld Counsel for the assessee brought our attention to para 7 of the CIT (A)'s order and submitted that the said fees was paid by the assessee to the Tata Sons Ltd for use of 'brand'. The said expenditure was brought in the scope of fringe benefit under the provisions of section 115WB(2)(D) of the Act and the similar issue was came up for adjudication in the AYs 2007-2008 where the ITAT allowed the appeal of the assessee. The CIT (A) in the present case followed the said order of the Tribunal for the AYs 2007-2008. This view was actually upheld by the Hon'ble High Court in the assessee's own case vide appeal ITA No.1131 of 2012, copy of which is placed at pages 1-12 of the paper book.

3. We have heard both the parties and perused the orders of the Revenue Authorities as well as the relevant material placed before us. On perusal of the modification orders issued by the AO for the AY 2006-07 and the other orders of the Tribunal for the AYs 2007-08; 2008-09 and 2009-10, we are of the opinion, para 5.2 of the CIT (A)'s order is relevant in this regard. Considering the significance of the said para and for the sake of completeness of this order, the same is extracted as under:-

"5.2.....The Hon'ble ITAT had passed an order for AY 2007-2008 (the relevant portion is reproduced above) deciding the issue in favour of the assessee as per the claim made by it. It is observed from the facts of the case available on record vis-a-vis the facts of the case for the AY 2007-2008, that they are similar and only the quantum of subscription of fee varies. Following the decision of the Hon'ble ITAT for the AY 2007-08, it is held that the subscription fees paid is not subject to FBT and therefore, the same is allowed....."

4. Considering the above, we are of the opinion that the CIT (A) has rightly adjudicated the issue and granted relief to the assessee following the binding orders of the Tribunal on identical issues. Therefore, in our view, the ground raised by the Revenue is actually frivolous and they should be dismissed as such. We order accordingly. Thus, the ground raised by the Revenue is dismissed.

5. In the result, appeal of the Revenue is dismissed.

Order pronounced in the open court on 18th November, 2016.

Sd/-
(C.N. PRASAD)
JUDICIAL MEMBER

मुंबई Mumbai; दिनांक 18.11.2016
व.नि.स./ OKK, Sr. PS

Sd/-
(D. KARUNAKARA RAO)
ACCOUNTANT MEMBER

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)-
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR,
ITAT, Mumbai

6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,
उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / **ITAT, Mumbai**