

आयकर अपीलीय अधिकरण," ए" खंडपीठ मुंबई
INCOME TAX APPELLATE TRIBUNAL,MUMBAI-"A",BENCH
सर्वश्री जोगिन्दरसिंह, न्यायिक सदस्य एवं राजेन्द्र, लेखा सदस्य
Before S/Sh. Joginder Singh, Judicial Member & Rajendra, Accountant Member
आयकर अपील सं./ITA No.7473/Mum/2013,निर्धारण वर्ष/Assessment Year-2010-11

Dy. CIT-5(1) Room No. 568, 5 th Floor Aayakar Bhavan, M.K. Road Mumbai-400 020.	Vs	M/s. Katherine India Pvt. Ltd. 23, Jay Mahal, A-Road Churchgate Mumbai-400 020. PAN:AACCK 1685 N
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(अपीलार्थी /Appellant)

(प्रत्यर्थी / Respondent)

निर्धारिती ओर से/Assessee by :Shri Ishraq M. Contractor

राजस्व की ओर से/ **Revenue by :Ms. Amrita Ranjan**

सुनवाई की तारीख/ Date of Hearing : 03-12- 2015

घोषणा की तारीख / Date of Pronouncement : 01.01.2016

आयकर अधिनियम,1961 की धारा 254(1)के अन्तर्गत आदेश

Order u/s.254(1)of the Income-tax Act,1961(Act)

लेखा सदस्य राजेन्द्र के अनुसार PER RAJENDRA, AM-

Challenging the order dt.03.10.2013 of CIT(A)-9,Mumbai,the Assessing Officer(AO)has filed the present appeal.

Assessee-company,engaged in the business dealing in telecommunication equipments,filed its return of income on 29.09.2010declaring loss of Rs.3.95Crores.The AO completed the assessment on 19.02.2013,u/s.143(3) of the Act determining the income of the assessee at Rs. (-)3.26 Crores.

2.Effective ground of appeal is about deleting the addition made by the AO,amounting to Rs. 69.42 lakhs under the head management fees.During the assessment proceedings,the AO found that the assessee had debited Rs.69,42,392/-as management fees.He asked the assessee to explain as to why the expenditure should not be disallowed as same was not revenue in nature.After considering the submissions of the assessee,the AO held that the assessee had made the payment in lieu of receiving infrastructure support for corporate development and industrialisation,that same was to be treated as capital expenditure.

3.Aggrieved by the order of the AO, the assessee preferred an appeal before the First Appellate Authority(FAA).Before him it was argued that the assessee had entered in to an agreement with a German Company to provide management support infrastructure services, that payments were not in connection with any transfer of Technology or for acquisition of capital asset,that expenditure incurred under the heads salary,tent electricity,that the expenses were for running the business,that the payment was 4.55% of the total turnover,that as per the RBI guidelines limit for such expenditure had been fixed at 5%,that the expenditure did not result in any enduring benefit to the assessee.

After considering the submissions of the assessee,the FAA held that the management fees paid by the assessee-company was a routine expenditure,that it was not one time expenditure that would result in enduring benefit lasting for several years,that the expenditure incurred by the assessee was a revenue expenditure.Finally,the appeal filed by the assessee was allowed.

4.Before us,the the Departmental Representative(DR)supported the order of the AO.The AR

stated that while completing the assessment u/s.143(3)of the Act for the AY.2012-13,the AO had allowed the identical expenditure.

5.We have heard the rival submissions and perused the material before us. We find that the assessee had made payment to its parent company for providing assistance in various areas of actual functioning of the company and particularly the regular periodic audit by the qualified persons,that the assessee had to incur the said expenditure on yearly basis,that in one of the subsequent years the AO himself has held it to be revenue expenditure,that the nature of expenses incurred clearly establish that same were of revenue nature.In our opinion,order of the FAA does not suffer from any legal infirmity.Therefore,confirming his order,we decide effective ground of appeal against the AO.

As a result, appeal filed by the AO is dismissed

फलतः निर्धारिती अधिकारी द्वारा दाखिल की गई अपील नामंजूर की जाती है

Order pronounced in the open court on 1st January, 2016.

आदेश की घोषणा खुले न्यायालय में दिनांक 01 जनवरी, 2016 को की गई।

Sd/-

(जोगिन्दरसिंह/ Joginder Singh)

न्यायिक सदस्य / JUDICIAL MEMBER

मुंबई/Mumbai,दिनांक/Date 01.01.2016

व.नि.स.,Jy.Sr.PS.

Sd/-

(राजेन्द्र / RAJENDRA)

लेखा सदस्य / ACCOUNTANT MEMBER

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

1.Appellant /अपीलार्थी

2. Respondent /प्रत्यर्थी

3.The concerned CIT(A)/संबद्ध अपीलीय आयकर आयुक्त, 4.The concerned CIT /संबद्ध आयकर आयुक्त

5.DR "A" Bench, ITAT, Mumbai /विभागीय प्रतिनिधि, ए खंडपीठ,आ.अ.अधि.मुंबई

6.Guard File/गार्ड फाईल

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार Dy./Asst. Registrar

आयकर अपीलीय अधिकरण, मुंबई /ITAT, Mumbai.