

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई।
**IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH: CHENNAI**

श्री जॉर्ज माथन, न्यायिक सदस्य एवं
श्री ए. मोहन अलंकामणी, लेखा सदस्य के समक्ष

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER, AND
SHRI A. MOHAN ALANKAMONY, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.2525/Mds/2016
निर्धारण वर्ष /Assessment Year: 2012-13

The Dy. Commissioner of Income
Tax, Corporate Circle-4(1), Chennai.

Vs. M/s.Mediclone BiotechPvt.
Ltd., Block-B, No.36/37,
'Millennium' M.K. Srinivasan
Nagar, No.144, Old
Mahabalipuram Road,
Perungudi, Chennai-600 096.

[PAN: AAACM 5301 R]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

: Smt. R. Rajeswari, JCIT

प्रत्यर्थी की ओर से /Respondent by

: Shri K. Ravi, Adv.

सुनवाई की तारीख/Date of Hearing

: 12.07.2017

घोषणा की तारीख /Date of Pronouncement

: 12.07.2017

आदेश / ORDER

PER GEORGE MATHAN, JUDICIAL MEMBER:

ITA No.2525/Mds/2016 is an appeal filed by the Revenue against the Order of Commissioner of Income Tax (Appeals)-8, Chennai, in ITA No.177/2015-16 dated 21.06.2016 for the AY 2012-13.

2. Smt. R. Rajeswari, JCIT, represented on behalf of the Revenue and Shri K. Ravi, Adv., represented on behalf of the assessee.

3. It was submitted by the Ld.DR that there are two issues in the Revenue's appeal.

The first issue against the action of the Ld.CIT(A) in deleting the disallowance made by the AO by invoking the provisions of Sec.43B of the Act. It was a submission that the assessee had claimed interest expenses payable to the government departments on the loans taken from them being the Department of Bio-Technology, to an extent of Rs.11,33,300/- and Department of Science & Technology, to an extent of Rs.30,66,000/-. It was a submission that as the said interests were not actually paid, the AO by invoking the provisions of Sec.43B of the Act had disallowed the same. It was a submission that the Ld.CIT(A) had allowed the same, holding that the interest payments due to the Department of Bio-Technology and the Department of Science & Technology, Government of India, were payments to the government, which were not covered by the provisions of Sec.43B(d) of the Act. It was a submission that the order of the Ld.CIT(A) was liable to be reversed on this issue.

It was a submission that the second issue was against the action of the Ld.CIT(A) in deleting the addition made by the AO by invoking the provisions of Sec.68 of the Act in respect of the amount of Rs.2,50,000/-

credited to the assessee's bank account. It was a submission that the Ld.CIT(A) had deleted the same, holding that the source of the credit was explained as being from the Director of the assessee's company. It was a submission that the order of the Ld.CIT(A) was liable to be reversed.

4. In reply, the Ld.AR submitted that in respect of the first issue the interest payments were due to the Department of Bio-Technology and the Department of Science & Technology, which did not fall within the provisions of Sec.43B of the Act. It was a further submission that in respect of the second issue, the amounts represented the funds collected by the Director of the assessee company and deposited into the bank account of the assessee. He vehemently supported the order of the Ld.CIT(A).

5. We have considered the rival submissions. In respect of the issue of the disallowance u/s.43B, a perusal of the facts in the assessee's case clearly shows that, the interest payments are due to the Department of Bio-Technology and the Department of Science & Technology, which are basically Departments operating under Government of India. The said Departments are not public financial institutions nor/or scheduled banks. This being so, the provisions of Sec.43B does not apply in respect of the said interest liability. This being so, we find no error in the order of the Ld.CIT(A) on this issue.

6. In respect of the issue of the cash credit of Rs.2,50,000/-, a perusal of the Assessment Order clearly shows that the AO was well aware that the amount of Rs.2,50,000/- out of the loan of Rs.3,24,800/- raised by the Director of the assessee company. A perusal of the order of the Ld.CIT(A) shows that, the Ld.CIT(A) has considered the facts giving rise to the deposit of Rs.2,50,000/- was in the assessee's bank account out of the loan taken by the Director. This being so, we are of the view that the findings arrived by the Ld.CIT(A) is on a right footing and does not called for any interference.

7. In the result, the appeal filed by the Revenue is stands dismissed.

Order pronounced in the Open Court on July 12, 2017, at Chennai.

Sd/-

(ए. मोहन अलंकामणी)

(A. MOHAN ALANKAMONY)

लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-

(जॉर्ज माथन)

(GEORGE MATHAN)

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: July 12, 2017.

TLN

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)
4. आयकर आयुक्त/CIT
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF