

आयकर अपीलीय अधिकरण, 'डी' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

'D' BENCH, CHENNAI

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं श्री संजय अरोड़ा, लेखा सदस्य केसमक्ष

BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND
SHRI SANJAY ARORA, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.248/Mds/2017

निर्धारण वर्ष / Assessment Year : 2010-11

The Assistant Commissioner of
Income Tax,
Non-Corporate Circle 3,
Chennai - 600 034.

v. M/s Price Waterhouse & Co.,
8th floor, Prestige Palladium Bayan,
129-140, Greams Road,
Chennai - 600 006.

(अपीलार्थी/Appellant)

PAN : AAAFP 8828 M

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri Shiva Srinivas, JCIT

प्रत्यर्थी की ओर से/Respondent by : Shri K. Prasanna, CA

सुनवाई की तारीख/Date of Hearing : 21.03.2017

घोषणा की तारीख/Date of Pronouncement : 07.06.2017

आदेश /O R D E R

PER N.R.S. GANESAN, JUDICIAL MEMBER:

This appeal of the Revenue is directed against the order of the Commissioner of Income Tax (Appeals)-4, Chennai, dated 31.10.2016 and pertains to assessment year 2010-11.

2. The only issue arises for consideration is disallowance of partners' remuneration.

3. Shri Shiva Srinivas, the Ld. Departmental Representative, submitted that the assessee claimed partners' remuneration by virtue of supplementary deed dated 23.09.2010. The supplementary deed itself was executed only on 23.09.2010, therefore, the Assessing Officer found that the remuneration to partners cannot be allowed from 01.04.2009 to 31.03.2010. Accordingly, the claim of the assessee to the extent of ₹1,24,80,000/- was disallowed. However, according to the Ld. D.R., on appeal by the assessee, the CIT(Appeals) directed the Assessing Officer to allow the partners' remuneration with effect from the date of execution of relevant deed. According to the Ld. D.R., the supplementary deed was executed on 23.09.2010 which falls in the financial year 2010-11 and relevant assessment year is 2011-12. The year under consideration is assessment year 2010-11, therefore, according to the Ld. D.R., it cannot be allowed during the year under consideration.

4. On the contrary, Shri K. Prasanna, the Ld. representative for the assessee, submitted that the CIT(Appeals) directed the Assessing Officer to allow the payment of remuneration to working partners on the basis of supplementary partnership deed dated

23.09.2010 from the date of execution of relevant deed. Therefore, the Revenue cannot have any grievance at all.

5. We have considered the rival submissions on either side and perused the relevant material available on record. The payment of remuneration to working partners was based upon the supplementary partnership deed executed on 23.09.2010. It is not in dispute that the supplementary partnership deed was executed in the financial year 2010-11 which falls in the assessment year 2011-12. The CIT(Appeals) after considering the supplementary partnership deed, at para 41 of his order, directed the Assessing Officer as follows:-

“41. Hence, in view of the above observations of the undersigned, the A.O. is directed to allow the payment of remuneration to the working partners as evidenced in the Supplementary Partnership Deed executed on 23/09/2010 allowable w.e.f. the date of execution of relevant Deed.”

Therefore, the direction of the CIT(Appeals) is to allow the partners' remuneration only from the date of execution of relevant deed. If the date of execution of relevant deed falls in assessment year 2011-12, it cannot be allowed during the year under consideration.

Therefore, the claim of the assessee cannot be allowed during the year under consideration.

6. In view of the above, the appeal of the Revenue stands allowed.

Order pronounced on 7th June, 2017 at Chennai.

sd/-
(संजय अरोड़ा)
(Sanjay Arora)
लेखा सदस्य/Accountant Member

sd/-
(एन.आर.एस. गणेशन)
(N.R.S. Ganesan)
न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai,
दिनांक/Dated, the 7th June, 2017.

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)-4, Chennai-34
4. Principal CIT-5, Chennai
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.