

आयकर अपीलिय अधिकरण, 'ए' न्यायपीठ, चेन्नई।  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**'A' 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.3350/Mds/2016  
निर्धारण वर्ष /Assessment Year: 2006-07

The Asst. Commissioner of Income- Tax,  
Corporate Circle-4(2),  
Chennai-600 034.  
(अपीलार्थी/**Appellant**)

**Vs.** M/s.Kal Publications Pvt. Ltd.,  
No.229, Kutchery Road,  
Mylapore, Chennai-4.  
[PAN: AACCK 6694 D]  
(प्रत्यर्थी/**Respondent**)

Department by : Mr. ARV Sreenivasan, JCIT  
Assessee by : Mr.N.Devanathan, Adv.  
सुनवाई की तारीख/Date of Hearing : 24.10.2017  
घोषणा की तारीख /Date of Pronouncement : 24.10.2017

**आदेश / O R D E R**

**PER GEORGE MATHAN, JUDICIAL MEMBER:**

ITA No.3350/Mds/2016 is an appeal filed by the Revenue against the Order of the Commissioner of Income Tax (Appeals)-8, Chennai, in ITA No.14/2008-09 dated 30.09.2016 for the AY 2006-07.

2. Mr. ARV Sreenivasan, JCIT, represented on behalf of the Revenue and Mr. N.Devanathan, Adv., represented on behalf of the assessee.

3. It was submitted by the Ld.DR that the assessee is a company which had filed its return of income for the relevant assessment year declaring

an income of Rs.43,54,839/-. It was a submission that in the course of the assessment, it was noticed that the assessee had shown receipt of Inter Corporate-Deposits from M/s.Kal Cables Pvt. Ltd., to an extent of Rs.1.70 Cr. However, the same was not shown either under the head 'secured loans or unsecured loans'. On verification of the books, it was noticed that the same was shown under the head 'Advance pending allotment of shares'. It was a submission that in the books of M/s.Kal Cables Pvt. Ltd., the amount was shown as 'Loans and advances - Inter Corporate-Deposits'. It was a submission that the AO had treated the amount of Rs.1.70 Cr. received by the assessee from M/s.Kal Cables Ltd., as deemed dividend u/s.2(22)(e) of the Act. It was a submission that on appeal, the Ld.CIT(A) had verified the details and in Page No.9 of his order held that the amount of Rs.1.70 Cr. was received by the assessee during the FY 2005-06 relevant to the AY 2006-07 and was shown under the head 'Advance pending allotment of shares'. It was a submission that the Ld.CIT(A) had verified and found that the TDS had been deducted on an amount of Rs.3,90,00,004/- during the FY 2006-07 relevant to the AY 2007-08 which included the amount of Rs.1.70 Cr. and the said amount was shown as Advertisement & Publicity Expenses by M/s.Kal Cables Pvt. Ltd., the company which had paid the amount. It was a submission that consequently, as the assessee had shown the transaction in his Annual A/c as part of the transaction balances with the related parties as a business transaction and consequently held that the provisions of Sec.2(22)(e) did not apply. It was a submission that M/s.Kal Cables Pvt. Ltd., the payer

having shown the amount as 'Loans and advances - Inter Corporate-Deposits', the provisions of Sec.2(22)(e) of the Act applied. It was a prayer that the order of the Ld.CIT(A) was liable to be reversed.

4. In reply, the Ld.AR drew our attention to the written submissions filed before the Ld.CIT(A) to submit that the amount in question was not liable to be treated as deemed dividend. It was a simple trade advance for the advertisement carried out by the assessee towards the promotion of the business of Conditional Access Systems (CAS) of M/s.Kal Cables Pvt. Ltd., through the mode of paper insertions. It was a submission that the advertisement was circulated in the morning and in the evening newspapers namely Dinakaran and Tamilmurasu. The Ld.AR drew our attention to the Ledger A/c of M/s.Kal Cables Pvt. Ltd., in the books of the assessee for a period from 01.04.2006 to 31.03.2007 which showed the opening balance of Rs.1.70 Cr. and shown that this amount has been adjusted against the Revenue for the months from April, 2006 to September, 2006. The Ld.AR further drew our attention to the schedule to the financial statement and Schedule-11 for the year ending 31.03.2007, wherein the said amount of Rs.3,94,26,360/- was shown under the head 'General and Administration Expenses' in the books of M/s.Kal Cables Pvt. Ltd. The Ld.AR further drew our attention to the break-up of the amount of Rs.3,94,26,360/- to show that the said amount included the amount of Rs.1.70 Cr. received by the assessee towards Advertisement Expenses. It was a submission that the order of the

Ld.CIT(A) was liable to be held. He further drew our attention to the Circular issued by the CBDT in C.No.19/2017 dated 12.06.2017 to submit that the Revenue having not been able to dispute nor disprove the factum of the trade advance received by the assessee of the amount of Rs.1.70 Cr. from M/s.Kal Cables Pvt. Ltd., as has been found by the Ld.CIT(A), the appeal filed by the Revenue itself was liable to be withdrawn. He vehemently supported the order of the Ld.CIT(A).

5. We have considered the rival submissions. A perusal of the order of the Ld.CIT(A) clearly shows that the Ld.CIT(A) has verified the ledgers of both of the assessee and the payer, M/s.Kal Cables Pvt. Ltd., in respect of the transaction of Rs.1.70 Cr. The assessee has categorically proved that the transaction of Rs.1.70 Cr. is in effect a trade transaction in respect of the advertisement done by the assessee on behalf of the M/s.Kal Cables Pvt. Ltd., in its two newspapers. The Revenue has also been able to disprove the findings of the Ld.CIT(A) that the TDS has been deducted on the amount of Rs.1.70 Cr. which has been paid towards Advertisement Expenses by M/s.Kal Cables Pvt. Ltd., to the assessee. Consequently, we are of the view that the findings of the Ld.CIT(A), the said amount of Rs.1.70 Cr. is a trade transaction remains undisputed. The Revenue having been unable to disprove the findings of the Ld.CIT(A). We find no reason to interfere with the findings as arrived at by the Ld.CIT(A), we are not making any findings in respect of the submissions regarding, Circular issued by the CBDT in C.No.19/2017 dated 12.06.2017 as it is a

decision which has to be taken by the Revenue. In these circumstances, the findings of the Ld.CIT(A) on this issue stands confirmed.

6. Further, it is noticed that the appeal filed by the Revenue is time barred by two days. The appeal has been filed by the Revenue on 14.12.2016. Defect notice has also been issued to the Revenue. The appeal has been posted on multiple occasions on 16.02.2017, 11.04.2017, 25.04.2017, 13.06.2017, 16.08.2017 and now on 24.10.2017. No affidavit for condonation of delay has been filed. This being so, on this ground also, the appeal filed by the Revenue is liable to be dismissed and we do so.

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

Order pronounced in the Open Court on October 24, 2017, at Chennai.

**Sd/-**

(ए. मोहन अलंकामणी)

**(A. MOHAN ALANKAMONY)**

लेखा सदस्य/**ACCOUNTANT MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: October 24, 2017.

TLN

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

1. अपीलार्थी/Appellant

2. प्रत्यर्थी/Respondent

3. आयकर आयुक्त (अपील)/CIT(A)

**Sd/-**

(जॉर्ज माथन)

**(GEORGE MATHAN)**

न्यायिक सदस्य/**JUDICIAL MEMBER**

4. आयकर आयुक्त/CIT

5. विभागीय प्रतिनिधि/DR

6. गार्ड फाईल/GF