

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“C” BENCH : BANGALORE**

**BEFORE SHRI SUNIL KUMAR YADAV, JUDICIAL MEMBER AND  
SHRI JASON P BOAZ, ACCOUNTANT MEMBER**

ITA Nos.1559 to 1561/Bang/2017
Assessment years : 2011-12 to 2013-14

Central Silk Board, Ministry of Textiles, Government of Inida, Central Silk Board Complex, B. T. M. Layout, Hosur Road, Madiwala, Bengaluru-560 068. <b>PAN : BLRCO 5328 B</b>	Vs.	Income Tax Officer, TDS Ward – 16(2), Room No. 410, IV Floor, HMT Bhavan, 59, Bellary Road, Ganga Nagar, Bengaluru – 560 032.
APPELLANT		RESPONDENT

Assessee by	:	Shri. Narendra Sharma, Advocate
Revenue by	:	Shri. Pardeep Kumar, JCIT

Date of hearing	:	22.11.2017
Date of Pronouncement	:	22.12.2017

**ORDER**

***Per Sunil Kumar Yadav, Judicial Member***

These appeals are preferred by the assessee against the order of CIT(A) on common grounds. Therefore, these appeals were heard together and disposed off through this consolidated order. Since common grounds are raised in these appeals, we extract the grounds raised in ITA No.1559/Bang/2017 as under:

1. *The learned Commissioner ( Appeals ), on facts and in law, erred in sustaining the order passed by the Assessing Officer under sections 201(1) & 201(1A) treating the appellant as an assessee in default in respect of its alleged non-deduction of tax at source on the perquisite value of unfurnished accommodation provided to its employees and levying interest thereon.*
2. *The learned Commissioner ( Appeals ) erred in upholding the findings of the Assessing Officer that the appellant is an autonomous organisation and that it cannot be treated as Government.*
3. *The learned Commissioner ( Appeals ) failed to appreciate that the appellant is financially, functionally and administratively controlled by*

- the Ministry of Textiles, Government of India, that it is entirely and exclusively funded by the Government of India. that it is not a registered society or a limited company or an autonomous body and that it does not have Bye-laws for its functioning and activities.*
4. *The learned Commissioner (Appeals ) erred in upholding the finding of the Assessing Officer that it was required to value the unfurnished accommodation provided to its employees in terms of Sl. No. 2 of Table - I of Rule 3 of the Income Tax Rules, 1962 which is applicable to accommodation provided by private employers.*
  5. *The learned Commissioner ( Appeals ) ought to have appreciated that the appellant constituted ' the State ' within the meaning of Article 12 of the Constitution of India and that the salaries to its employees are paid from the Consolidated Fund of India and accordingly ought to have held that the employees of the appellant are employees of the Central Government.*
  6. *The learned Commissioner ( Appeals ) erred in following the decision of the Hon'ble Income Tax Appellate Tribunal - Bangalore Bench in Central Food Technological Research Institute v. ITO in ITA Nos. 1607 to 1611/Bang/2013 which is distinguishable on facts and the ratio of which is not applicable to the case of the appellant.*
  7. *The learned Commissioner ( Appeals ) ought to have followed the decisions of the Hon'ble Income Tax Appellate Tribunal - Delhi Bench in Ram Kanwar Rana v ITO 159 ITD 431 & Pune 13. Bench in Smt. Sapna Sanjay Raisonni v. ITO 179 TTJ (Pune) (UO) 34 relied upon by the appellant and accordingly, ought to have held that the employees of the appellant are employees of the Central Government.*
  8. *The learned Commissioner ( Appeals ) erred in holding that Ground Nos. 2, 13 & 14 are general in nature and, therefore, do not require to be separately adjudicated.*
  9. *The learned Commissioner ( Appeals ) ought to have considered Ground No. 2, the submissions made in support thereof and the provisions of section 201(3)(i) and accordingly, ought to have held that the order passed by the Assessing Officer in so far as it related to the first three quarters ending 30.6.2010, 30.9.2010 & 31.12.2010 was barred by limitation.*
  10. *The learned Commissioner ( Appeals ) ought to have adjudicated upon Ground Nos. 13 & 14 and considered the submissions made in support thereof and accordingly, ought to have quashed the order passed by the Assessing Officer as being bad in law, invalid and ab initio void as the appellant had filed the quarterly statements of deduction of tax referred to in section 200(3) in the status of' Government and the Assessing Officer had passed the order under sections 201(1) & 201(1A) on the appellant in the status of ' Society/Autonomous Body'.*
  11. *The learned Commissioner ( Appeals ) ought to have considered Ground No. 8 raised by the appellant before her and accordingly, ought to have held that the tax demanded by the Assessing Officer under section 201(1) amounting to Rs. 5,80,299 was excessive.*
  12. *The learned Commissioner ( Appeals ) erred in not considering and adjudicating upon Ground Nos. 9 to 12 raised by the appellant before her.*

13. *The learned Commissioner ( Appeals ) ought to have considered Ground No. 9 and the submissions made in support thereof and accordingly, ought to have held that the appellant could not be treated as an assessee in default in respect of education cess and secondary & higher education cess on income tax.*
14. *The learned Commissioner ( Appeals ) ought to have adjudicated upon Ground Nos. 10 & 11 and considered the submissions made in support thereof and accordingly, ought to have held that Interest under section 201(1A) could not be levied on the appellant.*
15. *The learned Commissioner ( Appeals ) failed to take note of the Written Submissions filed before her, the various decisions relied upon by the appellant, the various documents filed before her, facts of the case and the weight of evidence of record.*
16. *The Order of the learned Commissioner ( Appeals ) is opposed to law and facts of the case.*
17. *The learned Commissioner ( Appeals ) erred in passing the order in the manner she did.*
18. *For these and other grounds that may be urged at the time of hearing, the appellant prays that the appeal may be allowed.*

2. During the course of hearing, the learned counsel for the assessee has invited our attention that the impugned issues are squarely covered by the order of the Tribunal in the assessee's own case for the assessment year 2014-15 in which the Tribunal has restored the matter back to the AO to re-examine the matter in the light of the decisions referred to by the parties. Therefore, in the light of these facts, the matter should also go back to the AO.

3. The learned DR on the other hand has placed reliance upon the order of the Tribunal, Bangalore Bench, in the case of Central Food Technological Research Institute Vs. ITO in ITA Nos. 1607 to 1611/Bang/2013 in which the Tribunal, following the judgment of Apex Court in the case of Arun Kumar Vs. Union of India 286 ITR 89 (SC), approved the additions confirmed by the CIT(A). The learned DR however contended that since the issue is covered by the Tribunal order against the assessee, the order of CIT(A) should be confirmed.

4. Having carefully examined the orders of authorities below and documents placed on record we find that there was amendment in rule 3 of IT Rules according to which there are only 2 categories of the employees, one is with regard to the employees of Central and State Governments and second category is the employees of others. This aspect was not

examined by the Tribunal in the assessee's own case. The orders referred to by the Revenue was also not considered by the Tribunal in assessment year 2014-15.

5. On a careful perusal of the orders of the Tribunal referred to by the assessee as well as Revenue, we find that in both the orders, contrary views are taken by the Tribunal. In the assessee's own case for assessment year 2014-15, the Tribunal restored the matter back to the AO for readjudication of the issues afresh.

6. Having carefully examined the material available on record, we are of the view that the issue of claiming of deduction of tax at source requires to be re-examined in the light of this order of the Tribunal in the assessee's own case for assessment year 2014-15 and also in the case of Central Food Technological Research Institute Vs. ITO in ITA Nos. 1607 to 1611/Bang/2013. Copy of the CBDT's circular No.113/2002 is also placed on record. Therefore, we are of the view that let all these documents be considered by the AO while determining the issue i.e., whether the assessee is in default for deduction of tax at source or not. Accordingly, we set aside the order of the CIT(A) and restore the matter to the AO with a direction to readjudicate the issue afresh in terms indicated above.

7. In the result, appeals of the assessee are allowed for statistical purposes.

*Pronounced in the open court on 22<sup>nd</sup> December, 2017.*

Sd/-  
**(JASON P BOAZ)**  
**Accountant Member**

Sd/-  
**(SUNIL KUMAR YADAV)**  
**Judicial Member**

Place : Bangalore  
Dated : 22/12/2017  
/NS/\*

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|---|------------|---|----------------------|
| 1 | Appellant  | 2 | Respondent           |
| 3 | CIT(A)     | 4 | DR, ITAT, Bangalore. |
| 5 | Guard file |   |                      |

By order

Sr. Private Secretary,  
ITAT, Bangalore.