

**IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH, BENGALURU**

**BEFORE SHRI VIJAY PAL RAO, JUDICIAL MEMBER
and
SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER**

ITA No.607/Bang/2016
(Assessment year: 2011-12)

M/s.T D Power Systems Ltd.
Plot Nos.27, 28 & 29, KIADB Industrial Area,
Dobbspet,
Bengaluru-562 111 ... Appellant
PAN:AABCT 0360 J

Vs.

Deputy Commissioner of Income-tax LTU,
Bengaluru ... Respondent

Appellant by : Shri Satyanarayana Murthy, CA.
Respondent by : Shri S.Nambirajan, Addl.CIT(DR).

Date of hearing : 25/09/2017
Date of pronouncement : 22/12/2017

ORDER

Per INTURI RAMA RAO, AM :

This is an appeal filed by the assessee directed against the order of the Commissioner of Income-tax (Appeals)-14, LTU [CIT(A)], Bengaluru, dated 27/01/2016 for the assessment year 2011-12.

2. The assessee raised the following grounds of appeal:
 1. On the facts and circumstances of the case, the learned Commissioner of Income Tax (Appeals) erred in disallowing contribution to Japanese Red Cross Society of Rs.15,44,850/- on the ground that donation is paid out side India.
 2. The learned Commissioner of Income Tax (Appeals) erred in not appreciating the fact that the company has a branch office in Japan where the business activity also is also carried out and the relevant income and the expenses has also been included in the financial statement and offered for tax. Consequently, the amount is allowable under section 37.

Page 2 of 3

Your appellant seeks leave to add to, to amend any of the foregoing grounds as and when considered necessary/at the time of hearing.

3. The only issue in the present appeal is whether an amount of contribution of Rs.15,44,850/- made to Japanese Red Cross Society towards Tsunami victim relief in Japan is allowable deduction or not. It was claimed that this contribution was made by the Japan Branch of the company and it is an allowable expenditure u/s 37 of the Income-tax Act, 1961 [hereinafter referred to as 'the Act' for short]. In this connection, reliance was placed on the decision of the Hon'ble Supreme Court in the case of *Sri Venkata Satyanaraya Rice Mills Contractors Co. vs. CIT* (223 ITR 101). The AO disallowed the claim.

4. On appeal before the CIT(A), the same came to be confirmed as the expenditure was incurred outside India.

5. We heard rival submissions and perused the material on record. The issue in the present appeal is whether the amount of contribution made to Red Cross Society, Japan is an allowable expenditure while computing income under the head 'business income'. It is claimed that the contribution was made by Japan branch of the assessee and it is not clear from the record whether any profits earned by Japan Branch of the appellant or not. Even if so, no evidence was brought on record as to how the contribution had benefited the business operations of the branch of the assessee-company and mere reliance on the judicial decision without laying factual foundation does not come to the rescue of the assessee. Therefore, claim made by assessee cannot be allowed.

6. In the result, the appeal filed by the assessee is dismissed.

Order pronounced in the open court on 22nd December 2017

Sd/-
(VIJAY PAL RAO)
JUDICIAL MEMBER
Place: Bengaluru
Date : 22/12/2017
srinivasulu, sps

sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

Copy to :

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

By order

Senior Private Secretary
Income-tax Appellate Tribunal
Bangalore