

आयकर अपीलीय अधिकरण, 'डी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL, 'D' BENCH, CHENNAI
श्री ए. मोहन अलंकामणी, लेखा सदस्य एवं श्री धुव्वुरु आर.एल रेड्डी, न्यायिक सदस्य के समक्ष
BEFORE SHRI A.MOHAN ALANKAMONY, ACCOUNTANT MEMBER
AND SHRI DUVVURU RL REDDY, JUDICIAL MEMBER

आयकरअपीलसं./I.T.A.Nos.1815/Mds/2016 & 1079/Mds/2017
(निर्धारणवर्ष / Assessment Year: 2011-12)

The Deputy Commissioner of Income Tax, Pondicherry Circle No.378-386, Pondicherry.	Vs	M/s. SPI Technologies India P. Ltd., Gothi Industrial Estate, R.S.No.4/5 & 4/6, Kurumbapet, Pondicherry – 605 009.
		PAN: AABCK3967C
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Smt. S. Vijayaprabha, JCIT
प्रत्यर्थीकीओरसे/Respondent by	:	None

सुनवाईकीतारीख/Date of hearing	:	05.12.2017
घोषणाकीतारीख /Date of Pronouncement	:	18.01.2018

आदेश / ORDER

PER A. MOHAN ALANKAMONY, ACCOUNTANT MEMBER:

These two appeals filed by the Revenue are directed against the order passed by the Ld. Commissioner of Income Tax (Appeals)-Puducherry, dated 14.03.2016 in ITA Nos.17 & 75/CIT(A)-PDY/2014-15 for the assessment year 2011-12 passed U/s.250(6) r.w.s. 143(3) & 271(1)(c) of the Act.

2. The Revenue has raised several identical grounds in both the appeals however the crux of the issue is that based on the fresh evidence produced before the Ld.CIT(A), the Ld.CIT(A) had allowed the claim of expenditure towards management fee of Rs.3,05,08,036/- as deduction which was earlier disallowed by the Ld.AO and consequently deleted the levy of penalty.

3. The brief facts of the case are that the assessee is a private limited company engaged in the business of processing data, information technology and communications enabled services and other related services, filed its return of income for the assessment year 2011-12 on 13.09.2011 admitting total income of Rs.97,47,560/-. The case was selected for scrutiny under CASS and finally assessment order was passed U/s.143(3) of the Act on 07.03.2014, wherein the Ld.AO disallowed expenditure of Rs.3,05,08,036/- towards management fees and Rs.8,77,781/- towards provision on bad debts. Subsequently the Ld.AO levied penalty U/s.271(1)(c) of the Act. On appeal, the Ld.CIT(A) relying on the fresh evidence produced before him

deleted both the additions made by the Ld.AO and consequently deleted the levy of penalty U/s.271(1)(c) of the Act.

4. At the time of hearing the assessee failed to be present before the Bench and adjournment petition was filed. The Ld.DR at the outset submitted before us that the Ld.CIT(A) had reversed the order of the Ld.AO by deleting the additions made by disallowing the management fees paid of Rs.3,05,08,036/- and provision for bad debts of Rs.8,77,781/- based on fresh evidence produced before the Ld.CIT(A) which was not placed before the Ld.AO for verification. She further submitted that the Ld.CIT(A) had failed to obtain remand report from the Ld.AO before arriving at his decision. It was therefore pleaded that both the appeals may be remitted back to the file of Ld.AO for de-nova consideration.

5. After hearing the Ld. DR, we find merit in the submissions of the Ld.DR. From the facts of the case it is apparent that the Ld.CIT(A) has granted relief to the assessee by relying on the fresh evidence produced before him which is gross violation of

Rule 46A of the Rules. Therefore we hereby remit both the appeals back to the file of Ld.AO for de-nova consideration. The adjournment petition filed by the Ld.AR stands rejected.

6. In the result, both the appeals of the Revenue are allowed for statistical purposes.

Order pronounced on 18th January, 2018 at Chennai.

Sd/-

(धुव्वुरु आर.एल रेड्डी)
(Duvvuru RL Reddy)
न्यायिक सदस्य /Judicial Member

Sd/-

(ए. मोहन अलंकामणी)
(A. Mohan Alankamony)
लेखा सदस्य / Accountant Member

चेन्नई/Chennai,

दिनांक/Dated 18th January, 2018

RSR

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 |