



ITA No.4422/Mum/2016 & CO No. 46/M/18
Deloitte Corporate Finance Services India Pvt. Ltd.
Assessment Year 2010-11

आयकर अपीलीय अधिकरण "जी" न्यायपीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
"G" BENCH, MUMBAI

श्री सी. नागेंद्र प्रसाद, न्यायिक सदस्य एवं
श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष ।
BEFORE SHRI C.N. PRASAD, JM AND
SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं./I.T.A. No. 4422/Mum/2016
(निर्धारण वर्ष / Assessment Year: 2010-11)

Deputy Commissioner of Income Tax Circle-6(2)(1) Room No. 563, Aaykar Bhawan M.K.Road Mumbai-400 020	बनाम/ Vs.	Deloitte Corporate Finance Services India Private Limited Essar House, 11 K.K.Marg, Mahalaxmi Mumbai – 400 034
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. AACCD-4805-B		
(अपीलार्थी /Appellant)	:	(प्रत्यर्थी / Respondent)

&

CO. No. 46/Mum/2018
(Arising out of ITA No. 4422/M/16)
(निर्धारण वर्ष / Assessment Year: 2010-11)

Deloitte Corporate Finance Services India Private Limited Indiabulls Finance Centre Tower-3, 27 th -32 nd Floor Senapati Bapat Marg Elphinstone Road Mumbai – 400 013	बनाम/ Vs.	Deputy Commissioner of Income Tax Circle-6(2)(1) Room No. 563, Aaykar Bhawan M.K.Road Mumbai-400 020
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. AACCD-4805-B		
(अपीलार्थी /Appellant)	:	(प्रत्यर्थी / Respondent)

Assessee by	:	Ketan Ved, Ld. AR.
Revenue by	:	V.Vidhyadhar, Ld. DR

सुनवाई की तारीख / Date of Hearing	:	14/03/2018
घोषणा की तारीख / Date of Pronouncement	:	14/03/2018



आदेश / O R D E R

Per Bench

1. The captioned appeal by revenue for Assessment Year [AY] 2010-11 contest the order of Ld. Commissioner of Income-Tax (Appeals)- 2 [CIT(A)], Mumbai *Appeal No.CIT(A)-2/IT-25/2013-14 dated 14/03/2016*. The assessment for impugned AY was framed by Ld. Deputy Commissioner of Income Tax-1(1) on 06/03/2013 u/s 143(3) of the Income Tax Act, 1961. The assessee has filed cross objections against the same. The effective grounds raised in revenue's appeal reads as under:-

- I. *On the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in observing that the AO has not established that the method of accounting followed by the assessee was with an intention to defer the tax liabilities and there is no loss to revenue as the tax rate is the same in both assessment years without considering the fact that the assessee is following mercantile system of accounting as such, the revenue has to be recognized as and when the work is finished as per the terms of the contract.*

2.1 Facts leading to the same are that the assessee being *resident corporate assessee* engaged in providing *corporate finance services* was assessed for impugned AY at loss of Rs.10.81 crores after certain adjustment of *professional income* for Rs.1.01 crores as against returned loss of Rs.9.79 crores *e-filed* by the assessee on 30/10/2010. The aforesaid adjustment of *professional income* is the sole subject matter of this appeal.

2.2 Upon perusal of details filed by the assessee during assessment proceedings, the Ld. AO opined that the *professional fees* bills raised by the assessee in the month of April, 2010 amounting to Rs.1.05 crores



pertained to services rendered by the assessee in financial year 2009-10 and therefore, the same were required to be taxed in the impugned AY only. Since the assessee had already offered income of Rs.2.06 crores pertaining to bills raised in April, 2009 in the impugned AY, Ld. AO netted the same to Rs.1.01 crores and enhanced the returned loss to that extent.

3. Aggrieved, the assessee contested the same with success before Ld. CIT(A) vide impugned order dated 14/03/2016 where Ld. CIT(A) relying on the orders for AYs 2008-09 & 2009-10 allowed the stand of the assessee. Aggrieved, the revenue is in further appeal before us.

4. The Ld. Authorized Counsel for Assessee [AR], at the outset, drew our attention to the order of this Tribunal in assessee's own case for AY 2009-10 and submitted that the issue stood covered in assessee's favor by the cited judgment and therefore, the factual matrix being the identical, the same should be followed. The Ld. DR fairly conceded the same.

5. Upon perusal of order of this Tribunal in ITA No. 4135-36/Mum/2015 order dated 15/03/2017 for AY 2009-10, as placed on record, we find that the matter has been settled in assessee's favour by the Tribunal by making following observations:-

6.1. It is noted that the Assessing Officer made addition of Rs.2,06,73,054/- representing various invoices raised by the assessee on his clients in the month of April 2009. These receipts were accounted for in the relevant previous years of A.Y.2010-11, meaning thereby the income has already accounted for in the subsequent assessment year. The claim of the assessee is that the Revenue is recognized only at a stage where there is certainty of realization of income. It is noted that there is no undue benefit derived by the assessee in accounting for certain invoices in subsequent year. Our view finds support from the decision from Hon'ble Apex Court in CIT vs. Excel Industries Ltd., The tax rate in both the years is same, thus, we find no infirmity in the conclusion of the learned CIT(A).



Finally, both the appeals of the Revenue are dismissed.

Since the facts are identical, respectfully following the same, the appeal of the revenue stands dismissed. To make it more clear, the said adjustment of Rs.1.01 crores made by Ld. AO by enhancing the returned loss is not warranted and therefore, the total loss of the assessee stands determined at Rs.(-)9,79,91,325/-.

6. Resultantly, the revenue's appeal stands dismissed which makes assessee's cross objections *infructuous* and hence dismissed.

Order pronounced in the open court on 14th March, 2018.

Sd/-

(C.N.Prasad)

न्यायिक सदस्य / **Judicial Member**

मुंबई Mumbai; दिनांक Dated :14. 03.2018
Sr.PS:-

Sd/-

(Manoj Kumar Aggarwal)

लेखा सदस्य / **Accountant Member**

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. आयकर आयुक्त(अपील) / The CIT(A)
4. आयकर आयुक्त / CIT – concerned
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard File

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai