

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL, 'C' BENCH, CHENNAI
श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं ए. मोहन अलंकामणी, लेखा सदस्य के समक्ष
BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND
SHRI A.MOHAN ALANKAMONY, ACCOUNTANT MEMBER

आयकर अपील सं./I.T.A.No.962/Chny/2018
(निर्धारण वर्ष / Assessment Year: 2014-15)

M/s. Eruditus Education Pvt. Ltd., New No.332, Old No.145, Royapettah High Road, Luz Mylapore, Chennai – 600 034.	Vs	The ACIT, Corporate Circle - 2, Chennai – 34.
PAN: AACCE5419Q		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by	:	Shri NV Balaji, Advocate
प्रत्यर्थी की ओर से/ Respondent by	:	Shri Clement Ramesh Kumar, Addl. CIT

सुनवाई की तारीख/Date of hearing	:	13.08.2018
घोषणा की तारीख/Date of Pronouncement	:	14.08.2018

आदेश / ORDER

Per A. Mohan Alankamony, AM:-

The appeal by the assessee is directed against the order passed by the learned Commissioner of Income Tax (Appeals)-6, Chennai, dated 30.01.2018 in ITA No.591/CIT(A)-6/2016-17 for the assessment year 2014-15 passed U/s.250(6) r.w.s. 143(3) of the Act.

2. The assessee has raised several grounds in its appeal however the crux of the issue is that the Ld.CIT(A) has erred in upholding the order of Ld.AO who had made addition of

Rs.6,13,60,244/- invoking the provisions of Section 40(a)(ia) of the Act towards non-deduction of tax for the payments made to various parties in several countries for services rendered.

3. The brief facts of the case are that the assessee is a private limited company engaged in the business of providing training programs in Education, e-filed its return of income for the assessment year 2014-15 on 30.11.2014 admitting 'Nil' income under normal provisions and Rs.2,96,90,070/- under the provisions of Section 115JB (MAT) of the Act. The case was selected for scrutiny under CASS and notice U/s.143(2) of the Act was issued on 29.08.2015. Finally assessment order was passed U/s.143(3) of the Act on 28.12.2016 wherein the Ld.AO made several additions invoking the provisions of Section 40(a)(ia) of the Act.

4. During the course of scrutiny assessment proceedings it was observed by the Ld.AO that the assessee had made payments outside India towards expenditure incurred on account of conducting education programs without deducting tax at source. These expenses were incurred in several countries such as UK, USA, Kenya, Australia, etc., The assessee had claimed that it is not bound to deduct tax at source because the income arising out

of those payments were taxable in those respective countries and not in India due to DTA agreements. However the Ld.AO was of the view that the assessee is bound to deduct tax at source on such payments and accordingly invoked the provisions of Section 40(a)(ia) r.w.s. 195(1) of the Act and thereby disallowed the expenditure amounting to Rs.6,13,60,244/-. On appeal, the Ld.CIT(A) confirmed the order of the Ld.AO.

5. At the outset we find that the Ld.AO in his order had not discussed about the payments made to each and every entity in the respective countries with reference to the appropriate DTA agreements. We also find the order of the Ld.CIT(A) to be lacking in the same. Both the Ld.AR and the Ld.DR conceded to the observation of the Bench and had no objection for the matter to be remitted back to the file of Ld.AO for denova consideration. Therefore in the interest of justice, we hereby remit the matter back to the file of Ld.AO for fresh consideration and with directions to pass appropriate speaking order in accordance with law and merit after taking due consideration of the DTA agreements with respect to the payments made in each and every country and also after duly considering the nature of expenditure incurred by the

assessee with respect to the payments made to each and every entity. It is ordered accordingly.

6. In the result the appeal of the assessee is allowed for statistical purposes.

Order pronounced on the 14th August, 2018 at Chennai.

Sd/-

(एन.आर.एस. गणेशन)
(N.R.S. Ganesan)

न्यायिक सदस्य/Judicial Member

Sd/-

(ए. मोहन अलंकामणी)
(A. Mohan Alankamony)

लेखा सदस्य/Accountant Member

चेन्नई/Chennai,

दिनांक/Dated 14th August, 2018

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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|------------------------|--------------------------|------------------------------|
| 1. अपीलार्थी/Appellant | 2. प्रत्यर्थी/Respondent | 3. आयकर आयुक्त (अपील)/CIT(A) |
| 4. आयकर आयुक्त/CIT | 5. विभागीय प्रतिनिधि/DR | 6. गार्ड फाईल/GF |