

आयकर अपीलीय अधिकरण, “डी” न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL ‘D’ BENCH, CHENNAI
श्री अब्राहम पी. जॉर्ज, लेखा सदस्य एवं श्री धुव्वुरु आर.एल रेड्डी, न्यायिक सदस्य के समक्ष
Before Shri Abraham P. George, Accountant Member &
Shri Duvvuru RL Reddy, Judicial Member

आयकर अपील सं./I.T.A.No.406/Chny/2018
निर्धारण वर्ष/**Assessment Year:2009-10**

M/s. Tamilnadu Chemists & Allied
Distributors Alliance Ltd. [in
Liquidation], D-36, 8th Floor, Halls
Tower, No. 33, Halls Road, Egmore,
Chennai 600 008.

The Income Tax Officer,
Vs. Corporate Ward 3(1),
Nungambakkam,
Chennai.

[PAN:AACCT7540H]

(अपीलार्थी /Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri R. Viswanathan, C.A.
प्रत्यर्थी की ओर से/Respondent by : Shri B. Sagadevan, JCIT
सुनवाई की तारीख/ Date of hearing : 09.08.2018
घोषणा की तारीख /Date of Pronouncement : 15.10.2018

आदेश /O R D E R

PER DUVVURU RL REDDY, JUDICIAL MEMBER:

This appeal filed by the assessee is directed against the order of the Id. Commissioner of Income Tax (Appeals) 11, Chennai dated 14.11.2017 relevant to the assessment year 2009-10. The only effective ground raised in the appeal of the assessee is that the Id. CIT(A) has erred in confirming the disallowance of expenditure of ₹.2,34,411/- on the ground that the assessee has not commenced its business operation.

2. Brief facts of the case are that the assessee filed return of income on 17.09.2009 admitting total income at ₹.3,21,150/- under normal provision. The case was selected for scrutiny and verified the books of accounts as furnished by the assessee against statutory notices. During the course of assessment proceedings, the Assessing Officer disallowed the claim of expenditure of ₹.2,34,411/- on the ground that the expenses claimed by way of ROC fees for increasing authorized capital cannot be allowed as a deduction since the assessee has not commenced its business operation and accordingly, he assessed the total income of the assessee at ₹.5,55,560/-.

3. The assessee carried the matter in appeal before the Id. CIT(A). After considering the submissions of the assessee as well as facts of the case, the Id. CIT(A) confirmed the disallowance and dismissed the appeal of the assessee.

4. On being aggrieved, the assessee is in appeal before the Tribunal. By relying on the decision in the case of CIT v. L.G. Electronic (India) Ltd. 282 ITR 545 (Delhi), the Id. Counsel for the assessee has submitted that the expenditure incurred during the course of setting up of business is an allowable deduction and prayed for allowing the same.

5. Per contra, the Id. DR vehemently argued that no capital expenditure incurred during the course of setting up of business was allowed and thus the case law relied on by the Id. Counsel for the assessee is distinguishable.

6. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below. In the assessment order, the Assessing Officer has observed that the expenses claimed by way of ROC fees for increasing authorized capital cannot be allowed as a deduction since the assessee has not commenced its business activities. Accordingly, the Assessing Officer disallowed the assessee's claim of ROC fees. On appeal, the Id. CIT(A) has observed that the ROC fees paid for increase in authorized share capital of a company is a capital expenditure in nature and hence cannot be allowed as an allowable deduction.

6.1 In the case of Punjab State Industrial Development Corporation Ltd. v. CIT 225 ITR 792 as well as in the case of Brooke Bond India Ltd. v. CIT 225 ITR 798, the Hon'ble Supreme Court has categorically held that the expenditure incurred by a company in connection with issue of shares with a view to increase its share capital, is directly related to the expansion of the capital base of the company, and is capital expenditure, even though it may incidentally help in the business of the company and in the profit-making.

6.2 As has been rightly pointed out by the Id. DR, no capital expenditure incurred during the course of setting up of business was allowed in the case of CIT v. L.G. Electronic (India) Ltd. (supra), the said case law has no application to the facts of the present case, because, the expenditure claimed by the assessee was revenue in nature incurred during the course of setting up of business was allowed and the Hon'ble Delhi High Court has affirmed the same.

6.3 As has been held by the Hon'ble Supreme Court referred to above, the Id. CIT(A) has rightly held that the ROC fees paid for increase in authorized share capital of a company is a capital expenditure in nature and hence cannot be allowed as an allowable deduction. Thus, we find no reason to interfere with the order passed by the Id. CIT(A) on this issue and accordingly, the ground raised by the assessee stands dismissed.

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

Order pronounced on the 15th October, 2018 at Chennai.

Sd/-
(ABRAHAM P. GEORGE)
ACCOUNTANT MEMBER

Sd/-
(DUVVURU RL REDDY)
JUDICIAL MEMBER

Chennai, Dated, the 15.10.2018

Vm/-

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.