

आयकर अपीलीय अधिकरण, 'डी' न्यायपीठ, चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL , 'D' 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.543/CHNY/2018  
(निर्धारण वर्ष / Assessment Year: 2015-16)

The ACIT, Corporate Circle 3(1), Chennai – 34	Vs	M/s. Tamilnadu Arasu Cable TV Corporation Ltd., No.34/123, VI Floor, DUGAR Towers, Marshalls Road, Egmore, Chennai – 600 008.
		PAN:AAGCA8637E
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से /Appellant by	:	Ms. S. Vijayaprabha, JCIT
प्रत्यर्थी की ओर से /Respondent by	:	Ms. Lakshmi, CA

सुनवाई की तारीख/Date of hearing	:	16.08.2018
घोषणा की तारीख /Date of Pronouncement	:	16.10.2018

**आदेश / ORDER**

**Per A. Mohan Alankamony, AM:-**

This appeal by the Revenue is directed against the order passed by the Ld. Commissioner of Income Tax (Appeals)-11, Chennai dated 13.11.2017 in ITA No.107/CIT(A)-11/2014-15 for the assessment year 2015-16 passed U/s.250(6) r.w.s. 143(1) of the Act.

2. There is a delay of 04 days in filing the appeal by the Revenue. The Ld.ACIT has furnished an affidavit before us stating that the delay had occurred due to displacement of records. It was therefore pleaded that the short delay in filing the appeal may be condoned. The Ld.AR strongly objected to the submission of the Ld.DR and pleaded for dismissing the appeal of the Revenue. However, after hearing both sides, though we do not appreciate the lethargic functioning of the Revenue, in the interest of justice we are of the considered view that the short delay in filing the appeal requires to be condoned. Accordingly we hereby condone the delay of 4 days in filing the appeal by the Revenue and proceed to hear the case on merits.

3. The Revenue has raised several grounds in its appeal however the crux of the issue is that the Ld.CIT(A) has erred in directing the Ld.AO to include surcharge and cess paid along with MAT while giving MAT-credit U/s.115JB of the Act.

4. The brief facts of the case are that the assessee is a company engaged in business in the entertainment industry, filed its return of income for the assessment year 2015-16 electronically on

30.09.2015 declaring loss of Rs.20,18,85,479/- under normal provisions. The return was processed U/s.143(1) of the Act. The Ld.AO while processing the return U/s.143(1) of the Act allowed credit towards MAT without including surcharge and cess paid along with MAT during the earlier assessment year. On appeal, the Ld.CIT(A) directed the Ld.AO to include the surcharge, educational cess etc., paid earlier along with MAT while giving credit towards MAT in the subsequent years by observing as under:-

*“4.1 I have considered the assessee’s submissions carefully. As held by the Supreme Court in the case of CIT vs. K. Srinivasan (1972 AIR 491 : 1972 SCR (2) 309), the word ‘taxes’ include surcharge, cess, etc. Further the Chennai bench of ITAT in the case of Saint Gobain Gyproc India Ltd. vs DCIT (ITA No.2122/Mds/2015 dated 03.02.2016) has held that MAT credit includes surcharge, cess, etc. Respectfully following the decision of Chennai ITAT and the Supreme Court, I direct the Assessing Officer to include and allow the surcharge, education cess, etc., which were charged and included while determining the tax liabilities u/s 115JB etc. in the earlier years, while giving credit for the MAT taxes in the subsequent years including the current year under consideration. The assessee succeeds in its appeal in this regard.”*

Aggrieved by the order of the Ld.CIT(A), the Revenue is in appeal before us.

5. At the outset we do not find any infirmity in the order of the Ld.CIT(A) because the Ld.CIT(A) has rendered such direction only by following the decision of the Chennai Bench of the Tribunal cited

supra and the ratio laid down by the Hon'ble Apex Court in the case CIT vs. K. Srinivasan (supra). Hence we hereby uphold the order of the Ld.CIT(A).

6. In the result, the appeal of the Revenue is dismissed.

Order pronounced on the 16<sup>th</sup> October, 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 16<sup>th</sup> October, 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             |