

**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA 'B' BENCH, KOLKATA**

[Before Sri J. Sudhakar Reddy, Accountant Member & Shri S.S. Godara, Judicial Member]

I.T.A. No. 102/Kol/2017
Assessment Year: 2011-12

Income Tax Officer, Ward-10(1), Kolkata.....Appellant

M/s. Club 7 Holidays Limited.....Respondent
10, Landsdowne Terrace
Kolkata - 700 026
[PAN: AABCC 3119 L]

Appearances by:

Shri S. K. Tulsian & Sri S. De, A/R, appeared on behalf of the assessee.
Shri Robin Choudhury, Addl. CIT, DR appearing on behalf of the Revenue.

Date of concluding the hearing : August 23rd, 2018

Date of pronouncing the order : October 31st, 2018

ORDER

Per S.S. Godara, JM :-

This Revenue's appeal for assessment year 2011-12 is directed against the Commissioner of Income Tax (Appeals)- 4, Kolkata's order dt. 22/11/2016, passed in case no. ITA No.1146/CIT(A)-4/Ward-10(2)/Kol/14-15 involving proceedings u/s 143(3) of the Income Tax Act, 1961 (in short "the Act").

Heard both parties. Case file perused.

2. The revenue's sole substantive ground raised in the instant appeal challenges correctness of the CIT(A)'s action reversing assessment findings making addition in issue of Rs.3,61,15,386/- only on account of difference in 26AS statement regarding receipts realized from the assessee's seven payer parties. The CIT(A)'s detailed discussion under challenge has dealt with the instant issue as under:-

"4.2. I have considered the submission of the AR of the appellant in the backdrop of the assessment order. I have also perused the relevant materials on record. I find that the appellant is a Travel Agent and Tour Operator. Its receipts contain sums in the nature of 'Commission' received from its constituents on amounts received from the different clients. I find that the receipts from 7 (seven) parties considered by the AO as having not being included by the appellant within the list of party wise details as submitted before the AO are being enlisted in the list. The AR has explained the discrepancies with respect to each party. The crux of the matter is that the additions have been made on account of either time difference or on account of classification difference. In respect of one party in the name of

Vasavadatta Cement amounting to Rs.2,22,13,261/- it was explained by the AR of the appellant that during the year under consideration, it received a total amount of Rs.75,23,738/- against their payment for 3 groups operated during the year and also a small amount of Rs.21,000/- towards Staff Welfare. It was explained that the remaining amount of Rs.1,46,89,523/- was booked on 31.03.2011 which was actually provision made by the party in their accounts from which TDS was made. It was explained that as the group size for some of the groups got reduced from the targeted numbers, the actual payment made to the appellant was much lower than the amount provided for. After considering the explanations of the AR, there remains no dispute that any addition cannot be made. Thus, AO is directed to allow the claim of the appellant. This ground is allowed."

3. Learned departmental representative vehemently contends during the course of hearing that the Assessing Officer had rightly added the sum in question going by the relevant 26AS statement figures available in database indicating substantive difference with the corresponding figures taken in the relevant computation of income.

We find no merit in this sole substantive ground. A perusal of the case record reveals that the assessee has placed all details of its partywise gross receipts forming being subject matter of the impugned addition, ledger account of Manish Bagrodia & Party containing the corresponding receipt from M/s. Century Textiles & Industries Ltd., ledger account in the name of Mercedes Benz, Thailand Group involving receipts from M/s. Intercraft Autocity (P) Ltd., ledger account of Pannalal Adak consisting receipts of M/s. Grasim Industries Ltd. and Samruddhi Cement Ltd., ledger account of Vasavadatta Cement Ltd. and copy of letter dt. 29/06/2018 from M/s. Centrum Direct Limited regarding payment of Rs.99,247/-. This assessee is engaged in travel agent and tour operation business. The only issue herein is that of re-conciliation of the corresponding statements in from 26AS *vis-a-vis* assessee's computation of income declared pertaining to the impugned assessment year. The CIT(A) has examined assessee's all seven parties' ledgers, details and receipt in issue to come to the conclusion that it had rightly not treated gross sum of its receipts as income as per Form 26AS statement. We reiterate that the assessee mainly derives commission income only from the parties/payers concerned after maintaining ledgers of its customers whose payments are made in advance. It had therefore rightly not treated all the receipt amounts as its income as confirmed by the corresponding ledger accounts. We make it clear that these clinching ledger accounts of its parties have gone un rebutted during the course of

assessment as well as the instant second appeal proceedings before us. We conclude in these facts that the CIT(A) has rightly deleted the impugned addition made by the Assessing Officer alleging lack of reconciliation between assessee's total receipts *vis-a-vis* the income component admitted therein in its computation. The Revenue fails in its sole substantive grievance.

5. This Revenue's appeal is dismissed.

Kolkata, the 31st day of October, 2018.

Sd/-
[J. Sudhakar Reddy]
Accountant Member

Sd/-
[S.S. Godara]
Judicial Member

Dated :31.10.2018
{SC SPS}

Copy of the order forwarded to:

1. M/s. Club 7 Holidays Limited

10, Landsdowne Terrace
Kolkata - 700 026

2. Income Tax Officer, Ward-10(1), Kolkata

3. CIT(A)-
4. CIT- ,
5. CIT(DR), Kolkata Benches, Kolkata.

True copy
By order

Assistant Registrar
ITAT, Kolkata Benches