

<b>IN THE INCOME TAX APPELLATE TRIBUNAL</b>
<b>COCHIN BENCH, COCHIN</b>
<b>BEFORE S/SHRI CHANDRA POOJARI, AM &amp; GEORGE GEORGE K., JM</b>

I.T.A. No.426/Coch/2018
Assessment Year : 2012-13

Muthoot Health Care, Muthoot Building, Kozhencherry-689 641. [PAN:AACFM 7331E]	<b>Vs.</b>	The Deputy Commissioner of Income-tax, Circle-1, Thiruvalla.
<b>(Assessee-Appellant)</b>		<b>(Revenue-Respondent)</b>

I.T.A. No.428/Coch/2018
Assessment Year : 2014-15

MGM Muthoot Medical Centre (P) Ltd., Muthoot Building, Ring Road, Pathanamthitta-689 645. [PAN:AADCM 3874E]	<b>Vs.</b>	The Deputy Commissioner of Income-tax, Circle-1, Thiruvalla.
<b>(Assessee-Appellant)</b>		<b>(Revenue-Respondent)</b>

<b>Assessee by</b>	Shri R. Sreenivasan, CA
<b>Revenue by</b>	Smt. A.S. Bindhu, DR

<b>Date of hearing</b>	31/10/2018
<b>Date of pronouncement</b>	01/11/2018

### **ORDER**

Per CHANDRA POOJARI, AM:

These appeals filed by the assesses are directed against the different orders of the CIT(A), Kottayam dated 27/08/2018 and pertains to the assessment year 2014-15.

1.1 Since the issues raised in these two appeals are common, they were clubbed together, heard together and are being disposed of by this common, consolidated order.

2. The grounds raised by the assessee in ITA No. 426/Coch/2018 are as follows:

1. Disallowance of 75% of the travelling & conveyance expenditure paid to the doctors was not in order as this represents actual expenditure reimbursed subject to a cap by virtue of terms of employment.
2. As long as genuineness of the expenditure is not doubted, no portion of such expenditure warrants any disallowance.

3. The grounds raised by the assessee in ITA No. 428/Coch/2018 are as follows:

1. The CIT(A) was not justified in limiting the disallowance of 75% of the food and other expenses of the doctors.
2. As long as the CIT(A) has held in para 4.2.3 of his order to the effect that there was no finding in the assessment order on the deficiency noticed, he should have deleted the entire addition.

3. The facts of the case as narrated in ITA No. 426/Coch/2018 are that the assessee claimed Rs.3,56,458/- towards travelling and conveyance expenses. The Assessing Officer disallowed Rs.2,67,343/- which is 75% of the expenditure claimed.

4. On appeal, the CIT(A) by relying on the earlier decision in assessee's own case for AY 2012-13, remitted the issue to the file of the Assessing Officer to recompute the disallowance of travelling and conveyance expenses.
5. Against this, the assesses are in appeal before us.
6. After hearing both the parties, we are of the opinion that a similar issue came up for consideration before this Tribunal in assessee's own case in ITA No. 173/Coch/2018 vide order dated 05/10/2018 wherein the Tribunal remitted the issue to the file of the Assessing Officer for fresh consideration by holding as follows:

*"5. We have heard the rival submissions and perused the record. The main contention of the Ld. AR is that the travelling and conveyance expenditure was incurred by the assessee towards reimbursement of the same incurred by doctors and it does not contain any element of profit to the doctors so as to deduct TDS and disallowance of the same is unwarranted. More so, ad-hoc disallowance is not called for. In this case, the CIT(A) remitted the issue to the file of the Assessing Officer and directed the Assessing Officer to verify the actual expenditure said to have been incurred by the assessee towards reimbursement of travelling and conveyance paid to doctors and to disallow the actual expenditure shown to have been incurred. In our opinion, this finding of the CIT(A) is inappropriate. If the assessee has incurred expenditure towards reimbursement of travelling and conveyance which was paid to doctors, it is to be allowed as it was incurred wholly and exclusively for the purpose of the business of the assessee. It is the duty of the assessee to prove that the expenditure was incurred for the purpose of business. We remit this issue to the file of the Assessing Officer with the observation that the assessee is directed to place necessary evidence in support of the expenditure claimed before the Assessing Officer. Hence, this ground of appeal of the assessee is partly allowed for statistical purposes.*

6.1 In view of the above order of the Tribunal, we are inclined to remit this issue to the file of the Assessing Officer with same direction.

7. In the result, the appeals filed by the assesseees are partly allowed for statistical purposes.

Order pronounced in the open Court on this 1<sup>st</sup> November, 2018.

sd/-  
(GEORGE GEORGE K.)  
JUDICIAL MEMBER

sd/-  
(CHANDRA POOJARI)  
ACCOUNTANT MEMBER

Place: Kochi

Dated: 1<sup>st</sup> November, 2018

GJ

Copy to:

1. Muthoot Health Care, Muthoot Building, Kozhencherry-689 641
2. MGM Muthoot Medical Centre (P) Ltd., Muthoot Building, Ring Road, Pathanamthitta-689 645.
3. The Deputy Commissioner of Income-tax, Circle-1, Thiruvalla.
4. The Commissioner of Income-tax(Appeals),Kottayam.
5. The Pr. Commissioner of Income-tax, Kottayam.
6. D.R., I.T.A.T., Cochin Bench, Cochin.6. Guard File.

By Order

(ASSISTANT REGISTRAR)  
I.T.A.T., Cochin