

आयकर अपीलिय अधिकरण, "ए" न्यायपीठ, चेन्नई  
IN THE INCOME-TAX APPELLATE TRIBUNAL 'A' 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. 987/Chny/2018  
निर्धारण वर्ष/Assessment Year:2013-14  
&

C.O. No. 115/Chny/2018  
[In I.T.A. No. 987/Chny/2018]

The Assistant Commissioner of  
Income Tax, Corporate Circle 3(1),  
New Block, 4<sup>th</sup> Floor, 121, Mahatma  
Gandhi Road, Nungambakkam,  
Chennai 600 034.

M/s. Terumo Corporation Chennai  
Vs. Branch, No. 34 & 35, Alexander  
Square, Sardar Patel Road,  
Guindy, Chennai 600 032.

**[PAN:AACCT4384R]**

(Appellant)

(Respondent/Cross Objector)

अपीलार्थी की ओर से / Appellant by : Shri AR.V. Sreenivasan.J CIT  
प्रत्यर्थी की ओर से/Respondent by : Shri Jagjeet Kumar Singhi, C.A.  
सुनवाई की तारीख/ Date of hearing : 14.11.2018  
घोषणा की तारीख /Date of Pronouncement : 27.11.2018

**आदेश /ORDER**

**PER DUVVURU RL REDDY, JUDICIAL MEMBER:**

This appeal preferred by the Revenue is directed against the order of the Id. Commissioner of Income Tax (Appeals) 11, Chennai dated 12.12.2017 relevant to the assessment year 2013-14. The first ground raised in the appeal of the Revenue is that the Id. CIT(A) has erred in deleting the disallowance of sales promotion expenses by considering the bills produced

by assessee is in violation of provisions of Rule 46A of the Income Tax Rules and next ground relates to deleting the fuel expenses.

2. Brief facts of the case are that the assessee filed its return of income on 01.10.2013 admitting a loss of ₹.1,73,012/-. The case was selected for scrutiny. While completing the assessment under section 143(3) of the Act, the Assessing Officer assessed the income of the assessee at ₹.1,23,54,861/- by making various disallowances.

2.1 In the profit and loss account, the assessee has claimed ₹.2,34,53,972/- towards sales promotion expenses. When called for, the assessee has produced bills to the extent of ₹.1,15,38,183/- and for the balance amount of ₹.1,19,15,789/-, the assessee produced self-vouchers, which was not accepted by the Assessing Officer and brought to tax.

3. The assessee carried the matter in appeal before the Id. CIT(A). After considering the submissions and verifications of bills/vouchers, the Id. CIT(A) deleted ₹.95,70,392/- out of the total disallowance of ₹.1,19,15,789/-.

4. Aggrieved, the Revenue is in appeal before the Tribunal. The Id. DR submitted that the assessee has produced the bills in support of vouchers for the first time before the Id. CIT(A) and without giving an opportunity to the Assessing Officer to verify the fresh evidence, the deletion of disallowance is

in violation of Rule 46A of the IT Rules.

5. On the other hand, the Id. Counsel for the assessee supported the orders of the Id. CIT(A).

6. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below. The assessee claimed the expenses though classified as sales promotion expenses, it was submitted that they are mainly on account of conducting workshops [₹.26,15,432/-], conferences [₹.79,11,003/-], sponsorships [₹.98,90,940/-], training expenses [₹.4,23,831/-], promotion tolls [₹.5,47,037/-], etc. It was submitted before the Id. CIT(A) that even the self-vouchers, which were produced before the Assessing Officer at the time of assessment, have contained the actual bills attached to them and in support of its claim, the assessee produced the bills and vouchers before the Id. CIT(A). By considering the submissions of the assessee and also the genuineness of the self-vouchers, by disallowing 10% of expenses of the total sales promotion expenses of ₹.2,34,53,972/-, the Id. CIT(A) deleted ₹.95,70,392/- [₹.1,19,15,789 – ₹.23,45,397]. While doing so, the Id. CIT(A) has not obtained any remand report from the Assessing Officer, which is in violation of Rule 46A of the IT Rules. In view of the above, we remit the matter back to the file of the Assessing Officer to re-examine and decide the issue afresh

by giving an opportunity of being heard to the assessee. If the self-vouchers contain all the necessary details like the name and addresses of the persons, purpose of payments, dates, amounts, etc. the same are to be considered as genuine, unless the revenue proves otherwise since incurring of business expenses through self-vouchers are not prohibited under the Income Tax Act, but it should be genuine. The ground raised by the Revenue is allowed for statistical purposes.

7. The assessee has claimed fuel expenses of ₹.10,26,355/-. Since the assessee produced self made vouchers, the Assessing Officer disallowed 30% of the expenses and brought to tax. By considering the genuineness of the self-vouchers, the Id. CIT(A) restricted 10% of the disallowance of total fuel expenses and deleted the balance amount. Since no remand report has been obtained from the Assessing Officer, we remit this matter also to the file of the Assessing Officer to re-examine the genuineness of the self-vouchers and decide the issue afresh by giving an opportunity of being heard to the assessee.

8. In the cross objection, the assessee has challenged sustaining the disallowances of ₹.23,45,397/- as well as ₹.1,02,635/- towards sales promotion expenses and fuel expenses respectively. However, during the course of hearing, the Id. Counsel for the assessee has not pressed the

grounds raised in the cross objection. Thus, the cross objection filed by the assessee stands dismissed as not pressed.

9. In the result, the appeal filed by the Revenue is allowed for statistical purposes and the Cross Objection filed by the assessee is dismissed.

Order pronounced on the 27<sup>th</sup> November, 2018 at Chennai.

Sd/-  
(ABRAHAM P. GEORGE)  
ACCOUNTANT MEMBER

Sd/-  
(DUVVURU RL REDDY)  
JUDICIAL MEMBER

Chennai, Dated, the 27.11.2018

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.