

आयकर अपीलिय अधिकरण, "सी" न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL 'C' BENCH: CHENNAI
श्री अब्राहम पी. जॉर्ज, लेखासदस्य एवं श्री धुव्वुरु आर.एल. रेड्डी, न्यायिक सदस्य के समक्ष
BEFORE SHRI ABRAHAM P.GEORGE, ACCOUNTANT MEMBER AND
SHRI DUVVURU R.L.REDDY, JUDICIAL MEMBER

आयकर अपील सं./I.T.A. No.399/Chny/2018
निर्धारण वर्ष /Assessment Year: 2013-14

M/s. Amtex Software Solutions
Private Limited, No. 75, Century
Centre, TTK Road, Alwarpet,
Chennai 600 018.

Vs. The Assistant Commissioner of
Income Tax(OSD),
Corporate Range 1,
Chennai 600 034.

[PAN: AAFCA0638J]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by
प्रत्यर्थी की ओर से /Respondent by

: Ms. J. Sree Vidya, Advocate
: Shri R. Clement Ramesh Kumar,
Addl. CIT

सुनवाई की तारीख/Date of Hearing

: 04.12.2018

घोषणा की तारीख /Date of Pronouncement

: 02.01.2019

आदेश / ORDER

PER DUVVURU R.L.REDDY, JUDICIAL MEMBER:

This appeal filed by the assessee is directed against the order of the Id. Commissioner of Income Tax (Appeals) 1, Chennai, dated 29.11.2017 relevant to the assessment year 2013-14. The only effective ground raised in the appeal of the assessee is that the Id. CIT(A) has erred in confirming the disallowance of guest house rent and related expenses.

2. Brief facts of the case are that the assessee filed its return of income on 29.11.2013 admitting a total income of ₹.1,60,50,200/-. The case was selected for scrutiny through CASS. On verification of the income returned and

the details furnished by the assessee, the Assessing Officer completed the assessment under section 143(3) r.w.s. 92CA of the Income Tax Act, 1961 ["Act" in short] by assessing the total income of the assessee at ₹.2,19,30,080/- after making various additions. Against the addition of guest house rent and related expenses of ₹.47,97,932/-, the assessee preferred further appeal before the Id. CIT(A). After considering the facts of the case and oral assertions, the Id. CIT(A) confirmed the addition.

3. On being aggrieved, the assessee is in appeal before the Tribunal. By reiterating the submissions as made before the Id. CIT(A) and filing copy of some e-mails, the Id. Counsel for the assessee has argued that the guest house has been used by the company to house company's guests and also for hosting office parties, conferences, meetings and training session. It was further submitted that the assessee has incurred various expenses to upkeep and maintain the guest house garden area, tennis court, swimming pool and to the interior in the house only for the usage as guest house and therefore, the Id. CIT(A) went in wrong to confirm the addition. It was also submitted that the guest house expenditure were allowed in the earlier assessment years 2010-11 to 2012-13 and no objection was raised in relation to rental payment, maintenance charges and depreciation and thereby the disallowance in this year is hit by principles of rule of consistency. Thus, the Id. Counsel for the assessee prayed for allowance of expenses incurred by the assessee towards

guest house rent and related expenses. On the other hand, the Id. DR strongly supported the orders of authorities below.

4. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below including paper book and additional paper book. In this case, the Assessing Officer has observed that the assessee has paid a sum of ₹.18 lakhs to one Mr. P. Hariraj, who is also father-in-law of the MD of the company, as also the father of the other director of the company. The Assessing Officer observed that the residential address of the both the directors, as given in the income tax returns, were the same as the guest house for which the assessee has paid rent. The Assessing Officer deputed the Income Tax Inspector to verify whether the guest house was being used for the purposes of assessee's business. The Inspector, on verification of the premises, found that there were no records whatsoever available in the premises in which the arrival and stay details of any of the guests to the premises were recorded. On further enquiry with the personnel present in the residential property stated to be the guest house, the personnel has stated that the property belongs to the director's family and the directors visits the place with their family members occasionally. Accordingly, the Assessing Officer confronted the assessee with these facts and asked the assessee to show how the rent and other maintenance expenses can be regarded as allowable expenditures. The assessee submitted that there was no escapement of tax on account of the claim by the assessee as the rental

income has been offered to tax by Mr. P. Hariraj, the owner of the property. Other than taking this argument, the assessee failed to produce any proof or other documentation to show that the property is used for assessee's business. The assessee could not produce any guest house register or any other document showing the booking details or any other evidence for the use of the premises for the assessee's business. The Assessing Officer verified the income tax return of Mr. Hariraj and found that the rental income disclosed by him does not take into account the amounts obtained as depreciation and expenses on maintenance of ₹.29 lakhs. Accordingly, the Assessing Officer disallowed the entire claim of guest house rent and other related expenses totaling to ₹.47,97,932/-.

5. Before the Id. CIT(A), it was the submissions of the assessee that the assessee was registered as an EOU with STPI and a number of foreign clients visited the assessee for the purpose of monitoring the work and also at the time of renewal of contracts. It was stated that the guest house was used for their boarding and lodging on account of the pleasant and salubrious location suitable for stay of foreign guests. The assessee further submitted that the use of the guest house resulted in saving of expenses on the boarding and lodging of foreign clients. The Id. CIT(A) observed that all the submissions of the assessee were merely in the form of oral statements not corroborated with any document or evidence. Moreover, in the light of the inspector's report on visit of the premises, the allowability of the expenditure was not established. On

further query, before the Id. CIT(A), the assessee placed on record certain emails exchanged with employees of their US group company. All these emails talk about a trip to India, but none of them refer to the guest house in particular. Some of the emails talk about booking and cancellation of accommodation in India. Some of them also refer to some guest house. However, the Id. CIT(A) observed that in nowhere the specific premises in respect of which the expenses are claimed have been referred to, even once. Since, there is no evidence that any of the foreign clients/guests stayed in the said premises, the disallowance made by the Assessing Officer was upheld by the Id. CIT(A).

6. We have also perused the additional paper book consisting of copy of the emails. All these emails talk about a trip to India, but none of them refer to the guest house in particular. Even before us, prima facie, the assessee has not filed any evidence in the form of Guest House Register containing the details of check-in & check-out of guest, number of days of stay of the guest, etc. Absolutely, there was no corroborative evidence produced by the assessee for the usage of the premises as guest house. The denial of the expenditure by the authorities below was not merely on the ground that the address of the guest house was not mentioned in the correspondence, but, there was no concrete evidence for the usage of the premises as guest house. Each assessment is distinct and we have to adjudicate the issue purely based on the facts of the case in hand even though the assessee has not filed copy

of the order of authorities below having allowed the guest house expenditure in the earlier assessment years. Considering the entirety of facts, circumstances and material on record, we are inclined to concur with the conclusion as drawn by the Id. CIT(A), who has considered each and every aspect of the issue before arriving at the conclusion drawn by him when no contrary material has been provided by the assessee with regard to the usage of the premises as guest house and thus, the ground raised by the assessee stands dismissed.

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

Order pronounced on the 02nd January, 2019, in Chennai.

Sd/-

(अब्राहम पी. जॉर्ज)
(ABRAHAM P. GEORGE)
लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-

(धुव्वुरु आर.एल. रेड्डी)
(DUVVURU R.L. REDDY)
न्यायिक सदस्य/JUDICIAL MEMBER

चेन्नई/Chennai,

दिनांक/Dated: 02.01.2019.

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