

IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC C” BENCH : BANGALORE

BEFORE SHRI N.V. VASUDEVAN, VICE PRESIDENT

ITA No.06/Bang/2019
Assessment year : 2007-08

ACI Worldwide Solutions Pvt. Ltd. Employees Group Gratuity Fund, (formerly M/s. Visual Banking Solutions (India) Pvt. Ltd. Employees Group Gratuity Fund), No.9, Salarpuria, Cambridge Road, Ulsoor, Bengaluru – 560 008. PAN: AAETA 3123C	Vs.	The Deputy Commissioner of Income Tax, Circle 1(1)(1), Bangalore.
APPELLANT		RESPONDENT

Appellant by	:	Shri Narendra Jain, Advocate
Respondent by	:	Shri Rajendra Chandekar, JCIT

Date of hearing	:	29.01.2019
Date of Pronouncement	:	20.02.2019

ORDER

This appeal by the assessee is against the order dated 30.10.2018 of the CIT(Appeals)-I, Bengaluru relating to assessment year 2007-08.

2. The only issue that arises for consideration in this appeal is as to whether the AO was right in taxing the income of the Appellant/Assessee. The Appellant is an Employees Group Gratuity Fund created for the exclusive benefit of the employees of M/s. Visual Banking Solutions (India) Pvt. Ltd. The Trust was created during the financial year

1996-97. Subsequently, the appellant entered into a Group Gratuity Scheme with LIC and the said scheme was approved by the CIT(Appeals), Bangalore. However, in financial year 1998-99 and in 2008-09 upon taking over of Visual Banking Solutions group by ACI Worldwide group there were changes in the management of the company and consequently the said Trust composition also changed including various aspects of the Trust Deed. However, the said changes in the composition of the Trust and the Trust Deed were not informed to the CIT, Bangalore and no approval was sought. The CIT passed an order dated March 27, 2014 under Rule 2(3) of the Part C of Schedule IV of the Act withdrawing the recognition earlier granted to the appellant. Consequently, the AO proceeded to treat the interest income accrued to the Trust as taxable in the hands of the appellant.

3. Before the CIT(Appeals), the assessee submitted that it had filed an appeal before the CBDT challenging the withdrawal of recognition of trust by the CIT, Bangalore. The assessee requested the proceedings before the CIT(Appeals) to be kept in abeyance till disposal of the appeal by the CBDT. The plea of the assessee was, however, rejected by the CIT(Appeals) for the following reasons:-

“During the course of the appeal proceedings the appellant mainly relied on its application made to the CBDT challenging the withdrawal of recognition to the said Trust by the CIT, Bengaluru and requested for ordering the grounds of appeal in its favour and in the alternative to keep the present appeal in abeyance.

2.3 Having considered the submissions. I am of the view that there have been major changes in the composition and the terms of the Trust and Trust Deed necessitating fresh approval of the CIT, Bengaluru. The order dated March 27, 2014 under Rule 2(3) of the Part C of Schedule IV of the Act withdrawing the recognition passed by the CIT is binding on the AO. Considering the same, one cannot find fault with the action of the AO in this

regard. Therefore, the appeal filed by the appellant challenging the action of the AO in this regard stands dismissed.”

4. Aggrieved by the order of CIT(Appeals), the assessee is in appeal before the Tribunal.

5. The assessee made two prayers before us that the assessee was an AOP and filed its return of income as such and was assessed in the status of AOP. He also brought to our notice that the entire interest income was brought to tax without allowing basic exemption. His request was to direct the AO to allow basic exemption and also tax the Appellant at the rate of tax as applicable to AOP as provided in clause (iv) of the first proviso to section 164 of the Income-tax Act, 1961 ["the Act"].

6. I am of the view that the request made by the assessee is in accordance with law and deserves to be accepted. I accordingly direct the AO to allow the basic exemption and apply the appropriate rate of tax applicable to AOP.

7. All other grounds raised by the assessee was not pressed and therefore dismissed as such.

8. In the result, the appeal by the assessee is partly allowed.

Pronounced in the open court on this 20th day of February, 2019.

Sd/-
(N.V. VASUDEVAN)
VICE PRESIDENT

Bangalore,
Dated, the 20th February, 2019.

/ Desai Smurthy /

Copy to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT, Bangalore.
6. Guard file

By order

Assistant Registrar,
ITAT, Bangalore.