

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'ए', अहमदाबाद ।
IN THE INCOME TAX APPELLATE TRIBUNAL
“ A ” BENCH, AHMEDABAD

सर्वश्री राजपाल यादव, न्यायिक सदस्य एवं प्रदीप कुमार केडिया, लेखा सदस्य के समक्ष।
BEFORE SHRI RAJPAL YADAV, JUDICIAL MEMBER &
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER

आयकर अपील सं./I.T.A. No.2602/Ahd/2017
(निर्धारण वर्ष / Assessment Year : 2015-16)

The ACIT Circle-2(1)(2) Ahmedabad	बनाम/ Vs.	Motif India Infotech Pvt.Ltd. 1-A, Wall Street-II, Nr.Gujarat College Ellisbridge, Ahmedabad
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AACCM 1005 A		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से/ Appellant by :	Ms. Aparna Agrawal, CIT-DR
प्रत्यर्थी की ओर से/Respondent by :	Shri Sanjay R.Shah, AR

सुनवाई की तारीख / Date of Hearing	08/05/2019
घोषणा की तारीख /Date of Pronouncement	14/05/2019

आदेश / O R D E R

PER PRADIP KUMAR KEDIA - AM:

The captioned appeal has been filed at the instance of the Revenue against the appellate order of the Commissioner of Income Tax(Appeals)-2, Ahmedabad [CIT(A) in short] dated 18/08/2017 relevant to Assessment Year (AY) 2015-16.

2. The grounds of appeal raised by the Revenue read as under:-

1 The Ld. CIT(A) has erred in law and on facts in directing the AO to grant foreign tax credit with respect to the income of the branch office in Philippines without properly appreciating the facts and the law on the matter.

1.1 The Ld. CIT(A) has erred in law and on facts in directing the AO to grant foreign tax credit without going through the DTAA (between India and Philippines) and without application of mind as to whether Article 7 of the DTAA warranted exemption method or credit method to avoid Double Taxation.

3. When the matter was called for hearing, the Ld.AR for the assessee in the Revenue's appeal submitted at the outset, that the controversy involves credit/grant of foreign tax credit with respect to the income of the branch office of the assessee in Philippines. The Ld.AR for the assessee also pointed out that originally while processing the assessment u/s.143(1) of the Act, the relief towards foreign credit eligible to the assessee on tax payable in Philippines as per provisions of section 90 read with Article 24(1) and 24(3) of DTAA between India and Philippines was not granted. However, the Assessing Officer has now himself granted the relief due to the assessee while passing the assessment order u/s.143(3) dated 13/12/2017. Therefore, the grievance of the Revenue, if any, does not subsist any more as the Assessing Officer himself has acquiesced that the relief is available to the assessee.

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The Ld.AR accordingly submitted that the appeal of the Revenue has become infructuous and requires to be dismissed.

4. The Ld.DR, on the other hand, did not controvert the assertions made on behalf of the assessee and fairly took note of relief granted by the Assessing Officer towards foreign tax credit while computation of tax liability pursuant to order passed under s.143(3) of the Act.

5. In the light of aforesaid discussion, we find merit in the assertions made on behalf of the assessee. The relief towards foreign tax credit is no longer in controversy view of the subsequent order of the Assessing Officer.

6. In the result, appeal of the Revenue is dismissed.

This Order pronounced in Open Court on	14/ 05/2019
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Sd/-
(राजपाल यादव)
न्यायिक सदस्य
(RAJPAL YADAV)
JUDICIAL MEMBER

Sd/-
(प्रदीप कुमार केडिया)
लेखा सदस्य
(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER

Ahmedabad; Dated 14/ 05 /2019

टी.सी.नायर, व.नि.स./T.C. NAIR, Sr. PS

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-2, Ahmedabad
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad