



**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**"SMC" BENCH, MUMBAI**

**BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER AND**  
**SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER**

ITA no.2491, 2492 & 2493/Mum./2018  
(Assessment Year : 2007-08, 2008-09 & 2009-10)

Connexions Air Travel Services P. Ltd.  
5, Nityanand Nagar-3  
Sahar Road, Andheri (E)  
Mumbai 400 069  
PAN – AACCC3748C

..... Appellant

v/s

Dy. Commissioner of Income Tax  
Central Circle-12, Mumbai

..... Respondent

Assessee by : Shri Dharan Gandhi  
Revenue by : Shri Chaitanya Anjaria

Date of Hearing – 16.04.2019

Date of Order – 31.05.2019

**ORDER**

**PER SAKTIJIT DEY. J.M.**

Aforesaid appeal have been filed by the assessee challenging three separate orders, all dated 7<sup>th</sup> November 2016, passed by the learned Commissioner (Appeals)-52, Mumbai, for the assessment years 2007-08, 2008-09 and 2009-10.

2. There is delay of 428 days in filing these appeals. The assessee has filed applications seeking condonation of delay accompanied by

Affidavits. After considering rival submissions and the contents of the Affidavit, we are of the view that delay in filing the appeals is due to genuine cause. Accordingly, we are inclined to condone the delay in filing the appeals and admit them for adjudication on merit.

3. The only common dispute arising in the present appeals relates to the additions made under section 41(1) of the Income Tax Act, 1961 (for short "the Act") on account of remission/cessation of liability.

4. Since these appeals pertain to the same assessee involving common issues arising out of identical set of facts and circumstances, therefore, as a matter of convenience, these appeals were heard together and are being disposed of by way of this consolidated order. However, facts being identical in all these appeals, for the sake of brevity, We will discuss the facts involved in ITA no. 2491/Mum./2018, pertaining to assessment year 2007-08.

5. Brief facts are, the assessee company is engaged in the business of travel agency. A search and seizure under section 132 of the Act was conducted in the case of assessee on 20<sup>th</sup> November 2010. Pursuant to which, proceedings under section 153A of the Act was initiated against the assessee. In the course of assessment proceedings, the Assessing Officer on verifying the submissions made

by the assessee in the assessment proceeding for assessment year 2009-10, noticed that an amount of ₹ 12,69,925, payable to M/s. On Wheels Rent A Car, for three years i.e., for the assessment year 2007-08, 2008-09 and 2009-10 was transferred to the loan account of one of the directors, Shri Amar Ainapure. Therefore, he called upon the assessee to explain why the car rental expenditure should not be treated as income of the assessee under section 41(1) of the Act on account of remission/cessation of liability. In response to the show cause notice issued by the Assessing Officer, it was submitted by the assessee that earlier there was a partnership firm in the name and style of M/s. Connections with two partners viz. Shri Amar Ainapure and Shri Jitendra Manjrekar. It was submitted, subsequently the said partnership firm was converted to a Private Limited Company i.e., the present assessee and at the time of such conversion an amount of ₹ 20,27,370, was receivable by Shri Amar Ainapure from Shri Jitendra Manjrekar. It was submitted, subsequently, the assessee company used to hire cars from M/s. On Wheels Rent A Car, a proprietary concern of Shri Jitendra Manjrekar and the total outstanding payable to the said concern was adjusted against the receivables of the director Amar Ainapure and the balance amount of ₹ 12,69,225, was transferred to the loan account of the director through journal entry. It was submitted, subsequently the assessee had also squared off the loan account by paying the amount of ₹ 12,69,225, to the director

through account payee cheque. The Assessing Officer, however, was not convinced with the explanation of the assessee and concluded that since, the assessee had outstanding liability of ₹ 6,35,904, towards car rental expenditure which was not paid by the assessee, therefore, there is remission/cessation of liability to that extent under section 41(1)(a) of the Act. Accordingly, he added back the said amount to the income of the assessee. Similar additions of different amounts were made in the assessment year 2008–09 and 2009–10 as well.

6. Though, the assessee challenged the aforesaid additions before the first appellate authority, however, rejecting the contention of the assessee, learned Commissioner (Appeals) confirmed the additions made by the Assessing Officer.

7. Learned Authorised Representative reiterated the submissions made before the Departmental Authorities. Further, he submitted, outstanding car rental expenditure payable to M/s. On Wheels Rent A Car, was actually adjusted against the amount receivable by the director from Shri Jintendra Manjrekar and balance receivable was transferred to loan account in the name of the said director. He submitted, subsequently, the assessee had paid the amount of ₹12,69,925, to the concerned director through account payee cheque. Thus, he submitted, there is no remission/cessation of liability in terms of section 41(1) of the Act, as the assessee has not derived any

benefit either in cash or kind. To buttress his contention, learned Authorised Representative drew our attention to the ledger account copy indicating the payment of ₹ 12,68,945, to the director. Further, he drew our attention to the confirmation letter dated 21<sup>st</sup> April 2016, issued by M/s. On Wheels Rent A Car. Thus, the learned Authorised Representative submitted, the additions made should be deleted.

8. The learned Departmental Representative relied upon the observations of the Departmental Authorities.

9. We have considered rival submissions and perused the material on record. It is admitted factual position that outstanding car rental expenditure appearing in the books of account were not paid to the travel agency who supplied the cars. In this regard the contention of the assessee that the car rental expenditure was adjusted against the amount receivable by one of its directors from M/s. On Wheels Rent A Car, and subsequently, the said amount was paid by the assessee to the concerned director. In our considered opinion, the aforesaid contention of the assessee is not acceptable. The facts on record clearly indicate that the assessee has not paid the outstanding liability on account of car rental expenditure to the concerned party to whom the amount was payable. Therefore, to that extent, there is remission/cessation of liability in terms of section 41(1)(a) of the Act, as the assessee has derived benefit either in cash or in some other

form and such benefit has accrued to the assessee during the years under consideration. In view of the aforesaid, we are inclined to concur with the decision of the Departmental Authorities on the issue. Accordingly, ground raised in all these appeals are dismissed.

10. In the result, all the appeals of the assessee are dismissed.

Order pronounced in the open Court on 31.05.2019

**Sd/-**  
**MANOJ KUMAR AGGARWAL**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**SAKTIJIT DEY**  
**JUDICIAL MEMBER**

**MUMBAI, DATED:**

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The CIT(A);*
- (4) *The CIT, Mumbai City concerned;*
- (5) *The DR, ITAT, Mumbai;*
- (6) *Guard file.*

*Pradeep J. Chowdhury*  
*Sr. Private Secretary*

True Copy  
By Order

Assistant Registrar  
ITAT, Mumbai