

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL, 'A' BENCH, CHENNAI
श्री धुव्वुरु आर.एल रेड्डी, न्यायिक सदस्य एवं श्री एस जयरामन, लेखा सदस्य के समक्ष
BEFORE SHRI DUVVURU RL REDDY, JUDICIAL MEMBER AND
SHRI S. JAYARAMAN, ACCOUNTANT MEMBER

आयकर अपील सं./I.T.A.No.1042/CHNY/2019

(निर्धारण वर्ष / Assessment Year: 2015-16)

The ACIT, LTU-1, Chennai – 34.	Vs	M/s. Mahindra Holidays and Resorts India Ltd., No.17-18, 2 nd Floor, Mount Road, Mahindra Towers, Pattulos Road, Chennai – 600 002.
		PAN: AAACM6469L
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by	:	Shri AR.V. Sreenivasan, JCIT
प्रत्यर्थी की ओर से/Respondent by	:	Shri Saroj Kumar Parida, Advocate

सुनवाई की तारीख/Date of hearing	:	01.07.2019
घोषणा की तारीख /Date of Pronouncement	:	02.07.2019

आदेश / ORDER

PER S. JAYARAMAN, ACCOUNTANT MEMBER:

The Revenue filed this appeal against the order of the learned Commissioner of Income Tax (Appeals)-15, Chennai in ITA No.239/2015-16/CIT(A)-15 dated 30.01.2019 for the assessment year 2015-16.

2. M/s. Mahindra Holidays and Resorts India Ltd., the assessee, is in the business of selling time share units and providing holiday

facilities to its members. The assessee initially collects a non-refundable membership fee from the members and also collects annual maintenance fee separately for maintenance of the Resorts. The assessee offers only 60% of the membership fee in the year of receipt and offers the remaining 40% of membership fee spread over the balance period of membership on pro-rata basis. It is observed that for the year under consideration, viz., financial year 2014-15 relevant to assessment year 2015-16, the assessee received a sum of Rs. 648,79,46,040/- towards membership fee, out of which, the company accounted for only an amount of Rs.482,60,07,078/-. On this issue as in the earlier assessment years, the Ld.AO has taken a consistent stand that membership fee is to be fully offered for taxation by the assessee in the year of receipt itself. The assessee filed an appeal against the order of the Ld.AO. The Ld.CIT(A) relying on the orders of the Special Bench of this Tribunal & Co-ordinate Bench decisions in the assessee's own case, allowed the appeal. Aggrieved against that order, the Revenue filed this appeal with the following grounds:-

1. The order of the learned CIT(A) is contrary to law and facts and circumstances of the case.

2.1 The learned CIT(A) has directed the AO to assess 60% of the advances received in this relevant A.Y. and defer 40% of the

advances during the period of membership by relying upon Hon'ble ITAT's decision in the assessee's own case in A.Y.2010-11.

2.2 The CIT(A) has failed to appreciate the fact that the department has not accepted the relied upon order of ITAT in the assessee's own case in this issue and appeals u/s 260A is pending before the Hon'ble Madras High Court in various assessment years.

3. For these and other grounds that may be adduced at the time of hearing, it is prayed that the order of the learned CIT(A) may be set aside and that of the Assessing officer be restored.

3. The Ld.DR fairly conceded that the Special Bench of the Tribunal decided the issue in assessee's favour for the assessment years 1998-99 to 2002-03 in ITA Nos.2412 to 2416/Mds/2005 dated 26.05.2010. Following that order, this Tribunal has decided the issue in assessee's favour in the assessee's own case for the assessment year 2009-10 in ITA 1345/Mds/2015 dated 13.07.2016 and for the assessment year 2010-11 in ITA 2956/Mds/2016 dated 05.05.2017. The Special Bench decided this issue in favour of the assessee for the assessment years 2002-03, 2006-07 to 2008-09 in ITA Nos.471, 472, 473 & 160/Mds/2012 dated 30.08.2012. However, the Revenue has not accepted the above decisions of the ITAT and they are in appeal before the Hon'ble Jurisdictional Madras High Court for various assessment years. Therefore, he pleaded to allow the appeal.

4. Per contra, the Ld.AR supported the order of the Ld.CIT(A).
5. We heard the rival submissions. We find that it is a recurrent issue in the assessee's case. Since this Tribunal following the decision of the Special Bench in the assessee's own case, *supra*, decided the issue in favour of the assessee, we do not find any reason to interfere with the order of the Ld.CIT(A) in directing the Ld.AO to assess 60% of the advance received in this assessment year and defer 40% of the advance during the period of membership. Therefore, the Revenue's appeal is dismissed.
6. In the result, the Revenue's appeal is dismissed.

Order pronounced on the 2nd July, 2019 at Chennai.

Sd/-

(धुव्वुरु आर एल रेड्डी)
(Duvvuru R.L Reddy)

न्यायिक सदस्य/Judicial Member

Sd/-

(एस जयरामन)
(S. Jayaraman)

लेखा सदस्य /Accountant Member

चेन्नई/Chennai,

दिनांक/Dated 2nd July, 2019

RSR

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 |