

आयकर अपीलिय अधिकरण] पुणे न्यायपीठ "ए" पुणे में  
IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCH "A", PUNE

BEFORE SHRI ANIL CHATURVEDI, AM AND  
SHRI PARTHA SARATHI CHAUDHURY, JM

आयकर अपील स / ITA No.1128/PUN/2016  
निर्धारण वर्ष / Assessment Year : 2009-10

The Dy. Commissioner of Income Tax,  
Circle – 7, Pune.

..... अपीलार्थी /  
Appellant

बनाम v/s

M/s. Tata Autocomp GY Batteries Ltd.,  
Taco House, Damle Path,  
Off. Law College Road,  
Erandwane, Pune – 411004.

..... प्रत्यर्थी /  
Respondent

PAN : AACCT3396H.

Assessee by : Shri Ketan Ved.

Revenue by : Shri Vishwas Mundhe.

सुनवाई की तारीख / Date of Hearing : 26.06.2019	घोषणा की तारीख / Date of Pronouncement: 12.07.2019
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**आदेश / ORDER**

**PER ANIL CHATURVEDI, AM :**

1. This appeal filed by the Revenue is emanating out of the order of Commissioner of Income Tax (A), Pune – 5, Pune dated 26.02.2016 for the assessment year 2009-10.

2. The relevant facts as culled out from the material on record are as under :-

Assessee is a company stated to be engaged in the business of manufacturing of Batteries. Assessee electronically filed its return of

income for A.Y. 2009-10 on 24.09.2010 declaring loss of Rs.35,44,84,222/-. The case was selected for scrutiny and thereafter assessment was framed u/s 143(3) of the Act vide order 18.03.2013 and the total loss was determined at Rs.32,61,62,800/-. Aggrieved by the order of AO, assessee carried the matter before Ld.CIT(A), who vide order dated 26.02.2016 (in appeal No.PN/CIT(A)-5/Asst.CIT-7, Pune/153/2013-14) granted substantial relief to the assessee. Aggrieved by the order of Ld.CIT(A), Revenue is now in appeal before us and has raised the following effective ground :

*“Whether, on the facts and in the circumstances of the case and in law, the Hon’ble CIT(Appeal) was justified in deleting the addition made on account of disallowance of Administrative Support Services claimed u/s 40A(2)(b) of the Act.”*

3. During the course of assessment proceedings, AO noticed that assessee had paid administrative service charges of Rs.2,83,21,427/- to its holding company i.e., Tata Autocomp Systems Ltd (TACO), one of the joint venture partners having 50% shares and similar amount was paid as royalty to other holding company i.e., GS Yuasa International Limited, Japan. AO noted that the amount paid towards the administrative service charges of Rs.2,83,21,427/- was from parties covered by Sec.40A(2)(b) of the Act. The assessee was asked to justify the same in relation to the reasonableness and nature of services. Assessee inter-alia submitted that the amount was paid pursuant to the administrative support service agreement entered between Assessee and TACO. AO on perusing the agreement noted that TACO was providing services at the start-up phase and operating phase. He noted that the services mentioned in operating phase were general in nature and requires no specialized services requiring high technical and professional knowledge. AO also

noted that the fee payable by the assessee was fixed as a percentage to the total turnover of the assessee. AO was of the view that it was difficult to understand as to how a price for the services rendered can be fixed on the basis of sales without knowing the expenditure nor knowing the volume of turnover. AO also noted that assessee had incurred expenses towards recruitment of new employees, travelling expenses, reimbursement etc. and it had paid separately for the services taken up by the TACO. AO therefore concluded that assessee had not received any administrative expenses from TACO during the assessment year and further concluded that assessee has not substantiated the services availed. He therefore held that in the absence of any justification for the amount paid, the claim of expenses paid to TACO at Rs.2,83,21,427/- was not allowable u/s 40A(2)(b) of the Act and accordingly he disallowed Rs.2,83,21,427/-. Aggrieved by the order of AO, assessee carried the matter before Ld.CIT(A) who noted that the facts of the assessee's case were identical to the facts of Tata Johnson Control Automotive Ltd., and in that case Pune Bench of the Tribunal (in ITA No.1450/PN/2011 for A.Y. 2006-07 order dated 09.12.2015) had decided the issue in favour of the assessee. Ld.CIT(A) has re-produced the findings of ITAT in Page 27 to 33 of her order which for the sake of brevity not reproduced by us. She thereafter by following the order in the case of Tata Johnson Automotive Ltd., (supra), the decision of Hon'ble Bombay High Court in the case of CIT Vs. Indo Saudi Services (Travel) (P.) Ltd., and other decisions cited in the order has decided the issue in favour of the assessee.

Aggrieved by the order of Ld.CIT(A), Revenue is now in appeal before us.

4. Before us, Ld. D.R. reiterated the submissions made before AO and Ld.CIT(A). Ld.A.R. on the other hand reiterated the submissions made before AO and Ld.CIT(A) and further submitted that Ld.CIT(A) had decided the issue in favour of the assessee by following the decision of Pune Bench of Tribunal in the case of Tata Johnson Automotive Ltd., (supra) and submitted that against the aforesaid order of the Tribunal, Revenue had preferred appeal before the Hon'ble Bombay High Court and that the Hon'ble Bombay High Court had dismissed the appeal of Revenue. He thus supported the order of Ld.CIT(A).

5. We have heard the rival submissions and perused the material on record. The issue in the present ground is with respect to disallowance of expenses paid to TACO u/s 40A(2)(b) of the Act. We find that Ld.CIT(A) after relying on the decision in the case of assessee's sister concern i.e., Tata Johnson Automotive Ltd., (supra) and other decisions referred to in her order, decided the issue in favour of the assessee. Before us, Revenue has not pointed out any distinguishing feature in the facts of the case in the year under consideration and in the case of assessee's sister concern i.e., Tata Johnson Automotive Ltd., (supra) nor has pointed out any fallacy in the findings of Ld.CIT(A). Further the Tribunal's decision in the case of Tata Johnson Automotive Ltd., (supra) has been upheld by Hon'ble Bombay High Court. In view of the aforesaid facts, we following the order of the Co-ordinate Bench of the Tribunal in the case of assessee's sister concern i.e., Tata Johnson Automotive Ltd., (supra) and for similar reasons dismiss the ground of Revenue. **Thus, the ground of the Revenue is dismissed.**

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

Order pronounced on the 12<sup>th</sup> day of July, 2019.

Sd/-  
(**PARTHA SARATHI CHAUDHURY**)  
न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-  
(**ANIL CHATURVEDI**)  
लेखा सदस्य / ACCOUNTANT MEMBER

पुणे Pune; दिनांक Dated : 12<sup>th</sup> July, 2019.

Yamini

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. CIT(A)-5, Pune.
4. Pr.CIT, Pune-4, Pune.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "ए" / DR,  
ITAT, "A" Pune;
6. गार्ड फाईल / Guard file.

**आदेशानुसार/ BY ORDER**

// True Copy //

वरिष्ठ निजी सचिव / Sr. Private Secretary  
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune.