

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

श्री डी. करुणाकरा राव, लेखा सदस्य एवं श्री विकास अवस्थी, न्यायिक सदस्य के समक्ष  
BEFORE SHRI D. KARUNAKARA RAO, AM AND SHRI VIKAS AWASTHY, JM

आयकर अपील सं. / ITA No.983/PUN/2017

निर्धारण वर्ष / Assessment Year : 2012-13

IMC Global Technology Services Pvt. Ltd.,  
(now Alyx Technologies India Pvt. Ltd.),  
Baner Mahalinge Road, Baner,  
Pune-411045.

PAN : AABCI3557L

.....अपीलार्थी / Appellant

बनाम / V/s.

ITO, Ward-11(5),  
Pune.

.....प्रत्यर्थी / Respondent

Assessee by : Shri Nikhil Pathak  
Revenue by : Shri Rajesh Gawali

सुनवाई की तारीख / Date of Hearing : 10.07.2019  
घोषणा की तारीख / Date of Pronouncement : 01.08.2019

आदेश / ORDER

**PER D. KARUNAKARA RAO, AM:**

This appeal is filed by the assessee against the order of CIT(A)-1, Pune dated 07.04.2017 for the Assessment Year 2012-13.

2. The solitary issue raised in the present appeal relates to the **"disallowance of Management Fees"** paid by the assessee to its holding company IMC Inc USA on the ground that the assessee failed to prove any benefit derived by him from these expenses.

3. Before us, at the outset, ld. Counsel for the assessee filed a copy of the order of the Tribunal for the assessment year 2010-11 in assessee's own case vide ITA No.976/PUN/2015 dated 25.03.2019 and submitted

that an identical issue was adjudicated by the Tribunal in favour of the assessee. Referring to the said order of the Tribunal (supra), ld. Counsel submitted that the Management related agreement is one of the same. The other facts are also common and therefore, the issue now stands covered in favour of the assessee by the said order of the Tribunal (supra). In this regard, ld. Counsel for the assessee brought our attention to the order of the Tribunal (supra), in general and the contents of para 4 to 17, in particulars. The ld. Counsel read out the contents of para 13 onwards and submitted that the Tribunal decided the issue in favour of the assessee following the decisions of the Co-ordinate Bench of the Tribunal in the case of (i) Emerson Climate Technologies (India) Ltd. vs. DCIT (2018) 90 taxmann.com 125 (Pune – Trib.) and (ii) Eaton Fluid Power Ltd. vs. ACIT (2018) 92 taxmann.com 158 (Pune – Trib.).

4. On the other hand, ld. DR for the Revenue relied heavily on the orders of the revenue authorities.

5. On hearing both the sides on the issue of allowability of the management fee and perusing the said order of the Tribunal (supra), we find the contents of para 13, 14 & 17 are relevant and the same are extracted as under :-

*“13. Applying the said ratio to the facts of the present case, we first hold that the assessee as part of its agreement with its holding company, agreed to pay management fees and such payment of management fees cannot be brushed aside on the ground that no benefit has arisen to the assessee company for reaching such conclusion. The Assessing Officer had raised two fold objections that no such payment was made in earlier years and payment during the year has resulted in losses. The reason for non-payment in earlier years was that the holding company was supporting operations of the assessee, in order to allow the assessee to establish its business modules but on a later date, the parties agreed to reimbursement of services provided by associated enterprises by way of management fees. The basis for raising invoices by the holding company was the posting of labour time sheets for the month. It is very clearly*

mentioned in the agreement entered into between the parties which is available on Paper Book, wherein it is provided that holding company IMC Inc, USA would provide management services to the assessee on three accounts; (a) services of Mr. Rahul Chitko as Executive Director for assessee company, (b) Expenses of Mr. Rahul Chitko to include labour payroll, other costs such as travel, telephone, supplies, etc., and atleast two round trips in 2009 to Pune, India and burdens applied in accordance with disclosures to the US Government's Defense Contract Audit Agency and (c) Expenses (payroll and other costs) of other IMC personnel utilized in support of Mr. Chitko, plus applicable burdens as defined in (1)(b). The liability of assessee was to make payments to its holding company on the basis of invoices raised by holding company on monthly basis; copy of invoices are also placed in the Paper Book starting from page 51 to 73. The perusal of said invoices would reflect the breakup under the head „Services and Labour“, under which names of personnel providing the services are written and different amounts payable to each of them are mentioned. Further details are given in respect of travel of the persons, if any telecommunication of computer charges and delivery expenses under the head „Travel / other expenses“. Such are the details which were available from month to month and the amounts in each month vary. The objection of authorities below in this regard was that though invoices have been raised but the same were serially numbered and also that the amounts were due to be paid at the close of the year. We find no merit in the stand of authorities below. It is an understanding between the parties, which has to be looked into and the expenses have to be allowed on accrual basis specially where the assessee is following mercantile system of accounting. Merely because the amounts were due at the close of the year, would not disentitle the assessee from claiming the said expenditure.

14. Now, coming to the next aspect of the disallowance of assessee on the ground whether any services were availed or not. The assessee in this regard has furnished additional evidence before the CIT(A), copies of which are placed at pages 79 to 173 of Paper Book. The said evidence is in the form of various emails exchanged between employees of the assessee and personnel of holding company. We have gone through the said evidence and we are of the view that the assessee had established its case of availment of said services. The assessee had further filed account extract of the holding company IMC Inc, USA, (now M/s. Alyx Inc USA), placed at pages 174 to 176 of Paper Book, to point out that the amount due has been paid on 12.04.2010. Another evidence which has been relied upon by the assessee is the copy of Incurred Cost submission of IMC Inc USA furnished to US Authorities along with Certificate of Final Indirect Costs, calculation of O/H rate and supporting schedules for 2009 and 2010, which is placed at pages 1 to 19 of Paper Book-3. In support the assessee had placed on record the invoices for management fees raised by IMC Inc USA for December 2009 at pages 20 and 21 of Paper Book-3.

.....

17. Following the same parity of reasoning, we hold that entire expenditure booked under the Management Fees is to be allowed as deduction in the hands of assessee. The grounds of appeal raised by assessee are thus, allowed.”

6. Considering the above, we are of the opinion the management fees paid by the assessee constitutes an allowable expenditure and also deductible expenditure. Accordingly, the relevant grounds raised by the assessee are allowed.

7. In the result, the appeal of the assessee is allowed.

Order pronounced on 01<sup>st</sup> day of August, 2019.

Sd/-  
(विकास अवस्थी /VIKAS AWASTHY)  
न्यायिक सदस्य/JUDICIAL MEMBER

Sd/-  
(डी. करुणाकरा राव/D. KARUNAKARA RAO)  
लेखा सदस्य/ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 01<sup>st</sup> August, 2019.  
Sujeet

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-1, Pune.
4. The Pr. CCIT, Pune.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "ए" बेंच,  
पुणे / DR, ITAT, "A" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary  
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.