

आयकर आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL , 'C' 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./ITA No.1354 & 1355/Chny/2019
निर्धारण वर्ष /Assessment Years: 2013-14 & 2014-15

M/s. SPI Technologies India P. Ltd.,
(formerly known as Lambda Content India Pvt. Ltd.),
Gothi Industrial Estate, R.S. No.4/5 & 4/6,
Vazhudavur Road, Kurumampet Rev.
Village, Pondicherry – 605 009.

Vs. The Deputy Commissioner of Income Tax,
Pondicherry Circle,
Pondicherry.

PAN: AABCK 3967C

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

: Shri Sriram Seshadri, CA

प्रत्यर्थी की ओर से /Respondent by

: Shri R. Clement Ramesh
Kumar,Addl.CIT

सुनवाई की तारीख/Date of Hearing

: 22.08.2019

घोषणा की तारीख /Date of Pronouncement

: 20.11.2019

आदेश / O R D E R

PER SHRI S. JAYARAMAN, ACCOUNTANT MEMBER:

The assessee filed these appeals against the common order of the Commissioner of Income Tax (Appeals), Puducherry in ITA No.20,180/CIT(A)-PDY/2016-17 dated 26.02.2019 for the assessment years 2013-14 & 2014-15, respectively.

2. M/s. SPI Technologies India Pvt. Ltd., the assessee, a part of the SPI group, was incorporated on 31st March, 1999, and is based in Puducherry. The company is engaged in data processing and related IT-enabled services in the e-publishing domain, primarily in typesetting business, including transformation of unedited manuscripts into final print-ready files, supply of structured data for electronic publishing and providing end-to-end project management services. The primary services include typesetting, data capturing, pre-editing, copy editing, collaborative project management, total project management, artwork management, style editing, author liaison, freelance management etc. While making the assessments, the Assessing Officer found that the assessee has claimed Rs.9,41,08,571/- & Rs.6,95,16,066/-, respectively towards management service charges to its group companies viz., SPI Technologies Inc, SPI Publisher Services LLC, SPI CRM INC, SPI Global Shared Services Pte Ltd., for the assessment years 2013-14 & 2014-15, respectively. The Assessing Officer required the assessee to furnish primary evidences for having received the management services from the above parties. The assessee filed print out of e-mail communications with its overseas group companies as evidence. The Assessing Officer held that most of the communications were

general in nature and does not pertain to any kind of managerial services rendered by the foreign service providers and therefore he disallowed the assessee's claim for both the assessment years and completed the assessments. Aggrieved, the assessee filed appeals before the CIT(A). The Id.CIT(A) held that the assessee failed to substantiate the receipt of services and failed to demonstrate the economic and commercial benefits on account of these payments. Therefore he confirmed the disallowances.

2.1. Further, for the assessment year 2013-14, the assessee claimed credit for TDS and advanced tax, which the Assessing Officer has not given correctly. On appeal, the Id.CIT(A) directed the Assessing Officer to examine this issue and allow necessary credit, if the claim is found correct. For the assessment year 2014-15, the Assessing Officer levied interest U/s.234A against which, the assessee appealed before the CIT(A) and the Id.CIT(A) directed the Assessing Officer to examine the correctness of levy of interest U/s.234A. Aggrieved against that order, the assessee filed the above appeals.

3. The Id.AR submitted that the nature of services rendered by the group companies to SPI Technologies India Pvt. Ltd., during the above period was as under:-

<i>Nature of services rendered</i>	<i>Brief description</i>
<i>Office of the CEO</i>	<i>Overall Company strategy formulation and implementation</i>
<i>Finance, HR & Corporate development and strategy</i>	<i>The group has centralized teams which provide overall guidance to the group entities</i>
<i>Legal</i>	<i>The Group has a centralized legal team which assists Group entities in legal issues</i>
<i>Internal Audit</i>	<i>These services relate to internal audit to improve efficiency and effectiveness</i>
<i>Operational support services</i>	<i>These services are provided for operational efficiency</i>
<i>Quality Control</i>	<i>These services are provided by the Group to ensure that the quality standards are adhered to by the Group entities.</i>

Further, it was submitted that for managing business operations effectively, specialized and experienced services are required by the assessee across all the departments like HR, legal, finance, IT, etc., which were availed from the Associated Enterprises ('AEs'). The need for such services is to avoid duplication of efforts, leverage on the benefits of a centralized excellence of the group and cost effectiveness and benefits of economies of scale.

The SPI Group operates in various countries across the world and therefore, has more expertise in handling various intricacies which arise in day-to-day operations. Further, the SPI group has also employed various qualified personnel in USA and Philippines to cater to the global requirements. It should be appreciated that the assessee would have incurred significant costs in a case where the aforesaid services were received from a third party or by performing the activity in-house. It is also pertinent to note that a subsidiary's business purpose is to attain overall and long-term group targets rather than to promote individual and short-term company advantages. The management services are without doubt closely related to the business purpose of the subsidiary, as the services are of vital importance to its fulfillment of this local role. The Id.AR invited our attention to the copies of Management Fee Agreements entered into by SPI Technologies India Pvt. Ltd., with group companies, which were placed in the Paper-book. He submitted that these agreements were entered as early as on April, 2010. Similar issue arose in the assessee's case in the assessment year 2011-12, wherein the CIT(A) has passed a favourable order with regard to the payment of management fees to its overseas group companies. The Id.AR further submitted that for the assessment years 2012-13 & 2015-16,

respectively, the TPO examined this issue and accepted the payment made towards management service fees in the order dated 22.01.2016 passed U/s.92CA(3) for the assessment year 2012-13 and in the order dated 31.10.2018 for the assessment year 2015-16. In this regard, he invited our attention to the copies of orders placed in paper-book. Thereafter, the Id.AR invited our attention to the various copies of communications kept in the paper-book viz., page Nos.140 to 143, 152, 175, etc., and submitted that how the services were evidenced through e-mail communications etc. Therefore, the Id.AR pleaded that the claim made by the assessee towards management services in the respective assessment year be allowed.

4. Per contra, the Id.DR submitted that the agreement copies are not registered and the services rendered by various group companies are also claimed to be on similar line. Therefore, he supported the orders of the lower authorities.

5. We heard the rival submissions and gone through the relevant material. The agreement for the management services were entered into as early as April 2010. The assessee has been claiming such expenses which were examined and allowed in the assessments

made for the assessment years 2011-12, 2012-13 and 2015-16 by the Revenue. Since, the Revenue has not pointed out specific deviation vis-à-vis earlier and subsequent years, if any, the principle of consistency requires that the assessee's claim be allowed for the impugned assessment years also and accordingly, we direct the Assessing Officer to allow the assessee's claim.

6. With regard to the assessee's claim that its TDS credit and advanced tax claim to the extent of Rs.25,39,510/- was not allowed during the period relevant to the assessment year 2013-14, we direct the Assessing Officer to examine this issue and allow the credit in accordance with law.

7. With regard to levy of interest U/s. 234A for the assessment year 2014-15, the assessee submitted that the due date for filing the return was 30.11.2014 and therefore, the levy of interest U/s.234A was unwarranted. Therefore, we direct the Assessing Officer to examine this issue and recompute the interest U/s.234A, if any, in accordance with law.

8. In the result, the assessee's appeals for the assessment years 2013-14 & 2014-15 are treated as partly allowed for statistical purposes.

Order pronounced in the Court on 20th November, 2019 in 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 20th November, 2019

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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|------------------------|--------------------------|------------------------------|
| 1. अपीलार्थी/Appellant | 2. प्रत्यर्थी/Respondent | 3. आयकर आयुक्त (अपील)/CIT(A) |
| 4. आयकर आयुक्त/CIT | 5. विभागीय प्रतिनिधि/DR | 6. गार्ड फाईल/GF |