

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'B' BENCH, CHENNAI
श्री धुव्वुरु आर.एल रेड्डी, न्यायिक सदस्य एवं श्री एस जयरामन, लेखा सदस्य के समक्ष
Before Shri Duvvuru RL Reddy, Judicial Member &
Shri S. Jayaraman, Accountant Member

आयकर अपील सं./I.T.A. No.1369/Chny/2018
निर्धारण वर्ष/Assessment Year: 2006-07
&
C.O. No.127/Chny/2018
[In I.T.A. No.1369/Chny/2018]

The Deputy Commissioner of
Income Tax, Central Circle 1(1),
Chennai 600 034.

M/s. ECCI Info Park Limited,
Vs. Old No. 4, New No. 3, Velayutham
Street, Nungambakkam,
Chennai 600 034.
[PAN: AABCE4585G]

(अपीलार्थी /Appellant)

(Respondent/Cross Objector)

अपीलार्थी की ओर से / Appellant by : Shri A. Sundararajan, Addl. CIT
प्रत्यर्थी की ओर से/Respondent by : Ms. Sriniranjani, Advocate
सुनवाई की तारीख/ Date of hearing : 05.03.2020
घोषणा की तारीख /Date of Pronouncement : 13.03.2020

आदेश /O R D E R

PER DUVVURUL RL REDDY, JUDICIAL MEMBER:

The appeal filed by the Revenue is directed against the order of the Id. Commissioner of Income Tax (Appeals) 13, Chennai dated 01.12.2017 relevant to the assessment year 2006-07.

2. The appeal filed by the Revenue is delayed by 4 days, for which, the Revenue has filed a petition for condonation of the delay, to which; the Id. Counsel for the assessee has not raised any serious objection. Consequently, since the Revenue was prevented by sufficient cause, the delay of 4 days in

filing of the appeal stands condoned and the appeal is admitted for adjudication.

3. At the time of hearing, the Id. Counsel for the assessee has submitted that the tax effect in the appeal filed by the Revenue is less than the monetary limit of ₹.50,00,000/- fixed by the CBDT to file an appeal by the Revenue before the Tribunal as per the CBDT Circular No. 17/2019, dated 08.08.2019. The Id. DR fairly conceded the submissions made by the Id. Counsel for the assessee. Being so, the Revenue authorities are precluded from filing the appeal before the Tribunal, since the tax effect is less than ₹.50,00,000/- in this appeal and the appeal filed by the Revenue is liable to be dismissed. Accordingly, the appeal filed by the Revenue is dismissed.

4. The first objection of the assessee relates to support the order of the Id. CIT(A) in holding that the registration expenses is part of capital work in progress. The appeal filed by the Revenue against the order of the Id. CIT(A) in deleting the disallowance made towards registration expenses was dismissed hereinabove since the tax effect is less than the monetary limit prescribed by the CBDT, the objection stands dismissed being infructuous.

5. The next objection of the assessee is that the Id. CIT(A) has grossly erred in confirming the disallowance of consultancy charges as capital work in progress merely on the ground that the same was incurred by a sister concern. It was the submission that there was no prohibition for a sister concern to incur

the expenses of the assessee and claim reimbursement and in this case, the assessee had reimbursed the consultancy charges to the sister concern/made appropriate book adjustments and prayed for allowance of consultancy charges.

6. Facts of the case are that during the course of assessment proceedings, ledger account of the consultancy charges was obtained from the assessee and the Assessing Officer noted that the expenses towards consultancy charges to the extent of ₹.27,50,000/- to Team III was made for architectural purposes. The Assessing Officer observed that the said payment was made by another company and also TDS was effected by another company called ECCI. Since the assessee company has not incurred any expenditure and also has not effected TDS towards the above expenses, the Assessing Officer disallowed the above expenses and reduced the amount from the capital work in progress. On appeal, the Id. CIT(A) confirmed the disallowance.

6.1 We have considered the rival contentions and gone through the orders of authorities below including paper book filed by the assessee. On perusal of the ledger account, no doubt, the said payment of consultancy charges was made by another company called ECCI. However, the Assessing Officer has not noticed that the assessee has reimbursed the consultancy charges to the sister concern, which was not subsequently claimed as an expense in terms of provisions of section 28 to 43 of the Act. Otherwise also, TDS has been deducted at source and paid to the Department, which was not disputed by the

Assessing Officer. Accordingly, we remit the matter back to the file of the Assessing Officer and direct to examine the payment of reimbursement as to under what circumstances, the assessee company has not incurred this expenditure, but reimbursed and also the agreement entered into between the assessee and the sister concern. If the assessee offers proper and satisfactory explanation, the Assessing Officer is directed to allow the claim of the assessee. Thus, the Assessing Officer shall readjudicate the issue in accordance with law after affording an opportunity of being heard to the assessee.

7. In the result, the appeal filed by the Revenue is dismissed and the Cross Objections filed by the assessee is partly allowed for statistical purposes.

Order pronounced on the 13th March, 2020 at Chennai.

Sd/-
(S. JAYARAMAN)
ACCOUNTANT MEMBER

Sd/-
(DUVVURU RL REDDY)
JUDICIAL MEMBER

Chennai, Dated, the 13.03.2020

Vm/-

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.