

IN THE INCOME-TAX APPELLATE TRIBUNAL “SMC” BENCH MUMBAI
BEFORE SHRI R.C. SHARMA, ACCOUNTANT MEMBER
AND SHRI PAWAN SINGH JUDICIAL MEMBER
ITA No. 1226/Mum/2019 (Assessment Year 2014-15)

M/s Scitech Centre 1001, Dalamal House, Nariman Point, Mumbai. PAN: AAACS9282K	Vs.	DCIT CC- 7(3) R.No. 655, 6 th Floor, Aayakar Bhavan, M.K. Road, Mumbai-400020.
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Appellant
Appellant by
Respondent by
Date of Hearing
Date of Pronouncement

Respondent
: Miss Niyanta Mehta AR
: Mohammed Rizwan (Sr.DR)
: 05.03.2020
: 16.06.2020

ORDER UNDER SECTION 254(1) OF INCOME TAX ACT

PER PAWAN SINGH, JUDICIAL MEMBER;

1. This appeal by assessee is directed against the order of Id. CIT(A)-49, Mumbai dated 04.12.2018 for Assessment Year 2014-15. The assessee has raised the following grounds of appeal:

GROUND I: DISALLOWANCE OF PREPAID SOFTWARE EXPENSES OF Rs.3,03,372/-:

1. On the facts & circumstances of the case and in law, the AO erred in disallowing annual maintenance charges for software amounting to Rs.3,03,372/- out of total annual maintenance charges amounting to Rs. 3,37,080/- on the ground that the same do not pertain to the assessment year under consideration without appreciating that the Appellant had reversed prior period expenses amounting to Rs. 252,81- and claimed only the net expenditure.
2. The Appellant humbly prays that the AO be directed to delete the addition of Rs. 3,03,372/- and allow the actual claim made by the Appellant amounting

to Rs. 50,562/- [3,37,080 (Actual Expense) - 2,52,810 (Reversed) - 33,708 (Allowed during assessment proceedings)].

2. Brief facts of the case as extracted from the order of the lower authorities are that the assessee is a company and is engaged in Scientific & Industrial Research, filed its return of income on 03.11.2014 declaring Nil income for Assessment Year 2014-15. The case was selected for scrutiny and the assessment was completed under section 143(3) on 24/10/2016. The assessing officer while passing the assessment order besides the other additions/ disallowance made disallowance of Rs. Software expenses of Rs. 3,03,372/-, out of total claim of Rs.3,37,080/- by taking view that as per invoice dated 10.03.2014 it was paid up to 31.12.2014, thus it was only for one month. On appeal before Id CIT(A), the disallowance was confirmed by taking view that no submissions were made by the Id AR for the assessee on this issue. Thus, further aggrieved the assessee has filed this appeal before this Tribunal.
3. We have heard the submission of learned authorised representative (Id. AR) for the assessee and the learned Departmental Representative (Id. DR) for the revenue and perused the material available on record. The Id. AR for the assessee submits that the assessee incurred expenses on annual maintenance of Software and annual licence fees for stress analysis of components prior to manufacturing. The assessee incurred

expenses of Rs. 3,37,080/-. The assessee entered in agreement with Anyscad Solution AMC. The contract was for 12 months from 31st December 2013 to 31st December 2014. The assessing officer considered the invoice date 10th March 2014 as beginning of the contract and allowed expenses of one month only. The ld AR for the assessee submits that no details were required by assessing officer before making disallowance. Complete details were furnished to ld CIT(A) for expenses incurred by the assessee. It was explained that the assessee reversed the amount which was prepaid i.e. for the period 1st April 2014 to 31st December 2014 for nine months of Rs. 2,52,810/- (being $3,37,080/12*9$). The ld CIT(A) confirmed the action of assessing officer without verifying the facts by holding that no submissions was made by the assessee, though complete details were furnished and written submissions were also filed by the assessee. The ld AR for the assessee also submitted that copy of tax invoice / receipt of maintenance contract is also placed on record along with the copy written submissions, filed before the ld CIT(A) is also placed on record.

4. The ld. Departmental Representative (DR) for the revenue supported the order of lower authorities. The ld DR further submits that the assessee has not explained the facts ld CIT(A) as recorded in para 7.1 of the impugned order.

5. We have considered the submissions of Id. representative of the parties and perused the record. As noted above the assessing officer disallowed the Software expenses of Rs. 303,372/- by taking view that as per invoice dated 10.03.2014 it was paid up to 31.12.2014, thus it was only for one month. The Id. CIT (A) confirmed the action of assessing officer by taking view that no submissions were made by the Id AR for the assessee on this issue. We have noted that the assessee has placed on record copy of submission with regard to the software expenses before assessing officer and the copy of written submission filed before Id CIT(A) on the issue of Software expenses. We have further noted that the assessee also filed application dated 24.01.2018, for admitting additional evidences on the impugned issue. On the admission of additional evidence the Id CIT(A) sought the remand report of the assessing officer, copy of such application is also on record. The copy of remand report dated 23.08.2018, furnished by assessing officer for objecting the admission of additional is also available on record. Despite sufficient material on record, including the copy of tax invoice with regard to annual maintenance of Software and written submission, the Id CIT(A) affirmed the action of assessing officer without examining the facts by holding that no submissions were made by AR of the assessee.
6. We have further noted that the assessing officer in para 6.1 of his remand report dated 23.08.2018 accepted that the bills and vouchers

submitted by the assessee are in order. The relevant part of remand report is extracted below.

“6.1 On perusal of the submissions of the assessee filed during the appellate proceedings, it is seen that the submission as submitted by the assessee are bills and vouchers are found to be in order.”

7. Considering the assessing officer in his remand report has already accepted that the submissions of the assessee are in order, therefore, we direct the assessing officer to allow the expenses. Even otherwise, we have seen that on the tax invoice it is clearly mentioned that purchase order was placed on 10.02.2014, invoice was generated on 10.03.2014 and maintenance contract was valid till 31st December 2014. In the result the grounds of appeal raised by the assessee are allowed.
8. In the result, appeal of the assessee is allowed.

Order pronounced as per Rule 34(5) on 16/06/2020.

Sd/-
R.C.SHARMA
ACCOUNTANT MEMBER

Sd/-
PAWAN SINGH
JUDICIAL MEMBER

Mumbai, Date: 16.06.2020

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| 1. Assessee | 2. Respondent |
| 3. The concerned CIT(A) | 4. The concerned CIT |
| 5. DR “SMC” Bench, ITAT, Mumbai | |
| 6. Guard File | |

BY ORDER,

Dy./Asst. Registrar
ITAT, Mumbai