

IN THE INCOME TAX APPELLATE TRIBUNAL KOLKATA BENCH 'A', KOLKATA

[Before Shri J. Sudhakar Reddy, Hon'ble Accountant Member &
Shri S.S. Godara, Hon'ble Judicial Member]

[Through Virtual Court]

I.T.A. No. 773/Kol/2018
Assessment Year 2003-04

D.C.I.T., Circle 8(1) Kolkata.....Appellant
P-7, Chowringhee Square,
Kolkata - 700069.

vs

M/s. Great Eastern Hotel Authority.....Respondent
1/2/3, Old Court House Street,
Kolkata - 700 069.
[PAN: AACCG 0028 K]

Appearances by:

Shri Jayanta Kumar, JCIT appearing on behalf of the Revenue.
None appearing on behalf of the Assessee.

Date of concluding the hearing : September 08, 2020

Date of pronouncing the order : September 18, 2020

ORDER

SHRI J. SUDHAKAR REDDY, AM

This is an appeal filed by the Revenue against the order of the Commissioner of Income Tax (Appeals) - 8, Kolkata dated 12.02.2018 (CIT(A) for short) passed u/s 250 of the Income Tax Act, 1961 ('the Act' for short) for A.Y. 2003-04.

2. None appeared on behalf of the assessee. There is no application for adjournment either. Under the circumstances, we dispose of this case, ex-parte on merit qua the assessee, after hearing the Ld. Departmental Representative.

3. Heard the Ld. Departmental Representative. The only ground that arises for the adjudication is as follows:

“That in the facts and circumstances of the case and law, the Ld. CIT(A) has erred in deleting the addition made by A.O. amounting to Rs. 1,70,00,000/- regarding grant-in-aid received by the assessee from the State Government against salary as ‘working capital contribution’ which should be treated as revenue income as per note no. 17 of the Notes on Accounts (Schedule No. 23) of Audited Accounts.”

4. This bench of the Tribunal in ITA No. 1317/Kol/2018 order dated 19.02.2020 in assessee’s own case on the very same issue has held as follows:

“3. On ground no. 2, we find that the ld. CIT(A) has stated that, a grant-in-aid, made from the Government is towards working capital and hence cannot be considered income and brought to tax. We find that the Government of West Bengal has given grant-in-aid to the assessee company, as working capital contribution, for salary payments. We are of the view that this amount has been received on revenue account and hence rightly brought to tax by the ld. AO. The decision of the ld. CIT(A) on this issue at paragraphs 11.2.1 and 11.2.2 at page 7 of his order which is extracted for ready reference:

‘11.2.1 First and foremost, grant in aid from the State government – cannot be in the nature of ‘income’. It may be treated as a revenue receipt in the accounts, for accountancy sake – but, it is simply not income.

11.2.2 Grant-in-aid is aid from the State government following due process and voting by the Legislature for allocation of funds for specific purposes as per budgetary provisions and procedures of the Constitution of India.’

4. The nature, character and purpose of the grant-in-aid has to be examined. When the amount is received from the Government either State or Centre on revenue account, it has to be considered as the income. Simply because due process was followed, a receipt cannot be characterized as revenue or capital. Hence this ground of the Revenue is allowed.

5. In the result, the appeal of the Revenue is allowed in part.”

5. Consistent with the view taken by us that the decision, we uphold the contention of the Revenue and allow this ground of the Revenue.

6. In the result, the appeal of the Revenue is allowed.

Order Pronounced in the Open Court on 18 September, 2020.

Sd/-

(S.S. Godara)
(JUDICIAL MEMBER)

Sd/-

(J. Sudhakar Reddy)
ACCOUNTANT MEMBER

Dated: 18/09/2020

Biswajit, Sr. P.S.

Copy of order forwarded to:

1. M/s. Great Eastern Hotel Authority, 1/2/3, Old Court House Street, Kolkata – 700069.
2. DCIT, Circle 8(1), Kolkata.
3. The CIT(A)
4. The CIT
5. DR

True Copy,

By order,

Assistant Registrar / H.O.O.
ITAT, Kolkata