

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH: CHENNAI

श्री वी दुर्गा राव, न्यायिक सदस्य एवं श्री जी मंजूनाथा, लेखा सदस्य के समक्ष
BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER AND
SHRI G. MANJUNATHA, ACCOUNTANT MEMBER

आयकर अपील सं./I.T.A No.2364/Chny/2019
Assessment Year: 2015 - 2016

M/s. Precision Techserve Private Limited,
No.22, Habibullah Road, T. Nagar,
Chennai – 60-0 017.

Vs. The Assistant Commissioner of
Income Tax,
Corporate Circle – 5 (2),
Chennai – 600 034.

[PAN: AABCP 8005C]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by : Mr. B. Ramakrishnan, C.A
प्रत्यर्थी की ओर से /Respondent by : Mr. Suresh Periasamy, JCIT

सुनवाई की तारीख/Date of Hearing : 22.07.2021
घोषणा की तारीख /Date of Pronouncement : 28.07.2021

आदेश / ORDER

PER V. DURGA RAO, JUDICIAL MEMBER:

This appeal filed by the assessee is against the order of the learned Commissioner of Income Tax, (Appeals)-3, Chennai in I.T.A. No.83/2017-18/A-3; dated 28.06.2019 relevant to the Assessment Year 2015 - 2016.

2. The facts are in brief is that the Assessee company is engaged in the business of "Computer Server Maintenance". It had filed the return of

income admitting an income as 'NIL' after adjusting a brought-forward loss. The case was selected for scrutiny and the assessment was completed u/s.143(3) of the Income Tax Act, 1961 dated 30.12.2017.

3. In the Assessment Order, the Assessing Officer has noted that on perusal of the financial statement submitted by the Assessee during the course of the scrutiny proceedings for the current assessment year, it was noticed that the Assessee had claimed an expense of Rs.1,53,17,811/- and asked the Assessee to file the details. The Assessee had failed to file all the details and no proper explanation was furnished. The Assessing Officer had seen that major transactions with the holding company, M/s. Precision Informatic (M) Private Limited with respect to the expenses paid amounting to Rs.1,53,17,811/-. No tangible evidences were produced by the Assessee to ascertain the genuineness of these claims. Only a few bills were in the name of M/s. Precision Informatic (M) Private Limited without any explanation, as to what expenses these bills were related to, and whether claimed by the Assessee or M/s. Precision Informatic (M) Private Limited. Further, he had noted that the actual expenses incurred by the company are far less but the expenses had increased due to apportionment of expenses from the holding company, i.e. M/s. Precision Informatics (M) Private Limited.

4. In so far as the sharing of expenses is concerned, no explanation was given by the Assessee. No document, such as the agreement with the holding company, details of the expenses as to why it was apportioned was not explained. Accordingly, the Assessing Officer had disallowed as it was not a genuine business expense u/s.37 of the Income Tax Act, 1961.

5. On appeal before the learned Commissioner of Income Tax (Appeals), he had partly granted relief to the Assessee. Being aggrieved, the Assessee carried the matter before the Tribunal.

6. The learned Counsel for the Assessee had submitted that the expenses incurred by the Assessee was on the floor space utilized along with the holding company, i.e. Precision Informatics (M) Private Limited and thus the same has to be allowed as it was for the purpose of business.

7. On the other hand, the learned Departmental Representative argued that the expenses incurred by the Assessee cannot be allowed on the basis of the floor space utilized by the Assessee.

8. We have heard both the sides through video-conferencing, perused the materials available on record and gone through the orders of the authorities below.

9. The learned Commissioner of Income Tax (Appeals) by considering the agreement between the Assessee and the holding company and the expenses incurred by the Assessee for the Assessment Years 2011–2012, 2012–2013, 2013–2014 and 2014-2015 took on an average of 10.74%. So far as the Assessment Year 2015-2016 is concerned, it was taken at the rate of 23.57%. The Assessee neither explained before the Assessing Officer nor before us as to why was the huge expenditure incurred for the Assessment Year 2015-2016. The CIT(A) has also given a finding that the cost allocation based on the floor space is irrational and has no basis.

10. Even before us, the Assessee has not been able to establish that the allocation of the expenses based on the floor space is a rational basis for allowing the expenses.

11. The learned Commissioner of Income Tax (Appeals) further gave a finding that the allocation of expenses on the basis of the revenue is rational. Accordingly, he allowed the expenses incurred by the Assessee on the basis of revenue, wherein the learned Commissioner of Income Tax (Appeals) has held that for the Assessment Year under consideration, the revenue from operations recorded by the holding company is at Rs.80,44,91,575/- , whereas the Assessee declared revenue from operations at Rs.8,73,59,043/- aggregating to a combined

revenue of Rs.89,18,50,618/-. The proportion of revenue of the Assessee comes to 9.80% according to which the common costs attributable to the Assessee is Rs.45,29,316/- (9.80% of Rs.4,62,17,517/-). Hence, the balance cost of Rs.1,07,88,495/- (Rs.1,53,17,811 minus 45,29,316/-) being excessive needs to be disallowed and accordingly the learned Commissioner of Income Tax (Appeals) disallowed the same.

12. In our opinion, the allocation of expenses between the holding company and the Assessee and the method followed by the learned Commissioner of Income Tax (Appeals) on the basis of revenue is rational and correct. Thus, no interference is warranted. For the sake of convenience, the relevant portion of the order of the learned Commissioner of Income Tax (Appeals) is extracted as under:

“9. I have gone through the copy of service agreement furnished before me, which is titled as “Expense allocation and Services Agreement” entered on 10th March, 2014 between the Assessee and its holding company. As per the recitals of this agreement, it is seen that both the companies operating in common premises and having common employees in some service functions for services like sales, customer services and commercial services and such employees are in payroll of M/s. Precision Informatic (M) Private Limited and common expenses like rent, telephone, IT Infrastructure Systems and Administrative Services are incurred by the group. As per the agreement, the costs have to be shared between the Assessee and the holding company in the following manner:

- (i) Group shall be made available to the Company copies of receipts, expense journal entries and such other accounting information as the Company may reasonably require to demonstrate that the value of the services being provided to the Company is equal to the amounts being charged to the Company by Group.

- (ii) On closing of Financial Year, the total cost incurred by the group on the above mentioned cost shall be charged to the company by the Group based on the floor space occupied by the company and sales and service related cost will be based on the actual cost incurred for the services for the year.”

13. In view of the above, there is no reason to interfere with the order passed by the learned Commissioner of Income Tax (Appeals). Thus this ground of appeal raised by the Assessee is dismissed.

14. In the result, the appeal of the Assessee in I.T.A. No.2364/Chny/2019 is dismissed.

Order pronounced on 28th July, 2021 in Chennai.

Sd/-

(श्री जी मंजूनाथा)

(G. MANJUNATHA)

लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-

(वी दुर्गा राव)

(V. DURGA RAO)

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: 28th July, 2021

IA, Sr. PS

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