

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL, 'B' BENCH, CHENNAI
श्री वी.दुर्गा राव, न्यायिक सदस्य एवं श्री जी.मंजुनाथ, लेखा सदस्य के समक्ष
BEFORE SHRI V.DURGA RAO, JUDICIAL MEMBER
AND SHRI G.MANJUNATHA, ACCOUNTANT MEMBER

आयकरअपीलसं./I.T.A.No.2679/Chny/2019

(निर्धारणवर्ष / Assessment Year:2015-16)

The Deputy Commissioner of Income Tax, Corporate Circle-2(2), 512, 5 th floor. Wanaparthy Block, Chennai-600 034.	Vs	M/s. IFMR Rural Channels & Services P.Ltd. Phase-I, 10 th floor, IITM Research Park, Kanagam Village, (behind Tidel Park) Taramani, Chennai-600 113.
		PAN: AAFCR 4450D
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Mr. G.Johnson, Addl.CIT
प्रत्यर्थी की ओरसे/Respondent by	:	Mr. N.Venkatraman, C.A.

सुनवाईकीतारीख/Date of hearing	:	07.09.2021
घोषणाकीतारीख /Date of Pronouncement	:	29.09.2021

आदेश / ORDER

PER G.MANJUNATHA, AM:

This appeal filed by the revenue is directed against order passed by the learned CIT(A)-6, Chennai dated 05.06.2019 and pertains to assessment year 2015-16.

2. The Revenue has raised following grounds of appeal:-

"The Order of the learned Commissioner of Income Tax (Appeals) is contrary to the Law and facts of the case.

1. CIT(A) erred in directing the AO to allow the claim of Rs.4,50,00,000/- towards 'Technology and Research & Development Fee to IRFS by holding that the same is an eligible business expenditure as the assessee is using the "KGFS" Model framework, various services, software 'PERDIX' etc., which in turn were used for the business of assessee's subsidiary company.

2. CIT(A) ought to have appreciate the fact that the addition was made by AU as the assessee failed to prove the genuineness/relevance of the Technology and Research & Development fees to its group concern M/s IFMR Rural Financial services Pvt. Ltd.,

3. CIT(A) failed to consider the fact that the assessee has not furnished the relevant details along with corroborative evidences either at the time of assessment proceedings or at the appeal proceedings in support of its claim.”

3. Brief facts of the case are that assessee M/s. IFMR Rural Channels & Services Pvt. Ltd., being an entity with a mission of financial inclusion by giving financial access to remote rural India is having about 250 branches across three States of Tamil Nadu, Uttarakhand and Orissa. In order to serve purpose, the assessee has a technology with complete integration of central accounting software and data is processed on real time basis. M/s. IFMR Rural Finance Services Pvt. Ltd. is a originator and owner of KGFS model framework, a distinctive model for providing financial products / services, which has been designed and developed keeping in mind needs of underserved segments of population of various geographic locations. The assessee has entered into a framework agreement with M/s. IFMR Rural Financial Services Pvt. Ltd. dated 28.01.2013 and had agreed to avail services of IFMR Rural Financial Services Pvt. Ltd. along with software called

'PERDIX' for which it has agreed to pay a sum of Rs.3 crores towards technology services and further a sum of Rs.1.5 crores towards professional services. During the financial year relevant to assessment year 2015-16, the assessee has paid a sum of Rs.4,50,00,000/- to M/s. IFMR Rural Financial Services Pvt.Ltd. and debited same into profit & loss account under the head 'Technology and Research & Development Fee'. The Assessing Officer, however, was not satisfied with the explanation furnished by the assessee and according to him, the assessee has failed to establish kind of technology received from M/s. IFMR Rural Financial Services Pvt. Ltd. and further the assessee has not substantiated relevance of expenses for running its day-to-day operations. Further, if at all, expense is incurred, same is incurred for acquiring trade mark etc. and hence, it should be capitalized. Therefore, he opined that payment made to M/s. IFMR Rural Financial Services Pvt. Ltd. amounting to Rs.4,50,00,000/- is not genuine and hence, disallowed and added back to total income. The relevant findings of the Assessing Officer are as under:-

"3.4 The assessee was asked to justify the claim of Technology and Research & Development fees paid to its sister concern. The assessee failed to establish the kind of technology received and has not submitted any material evidence in this regard. The assessee has only produced the

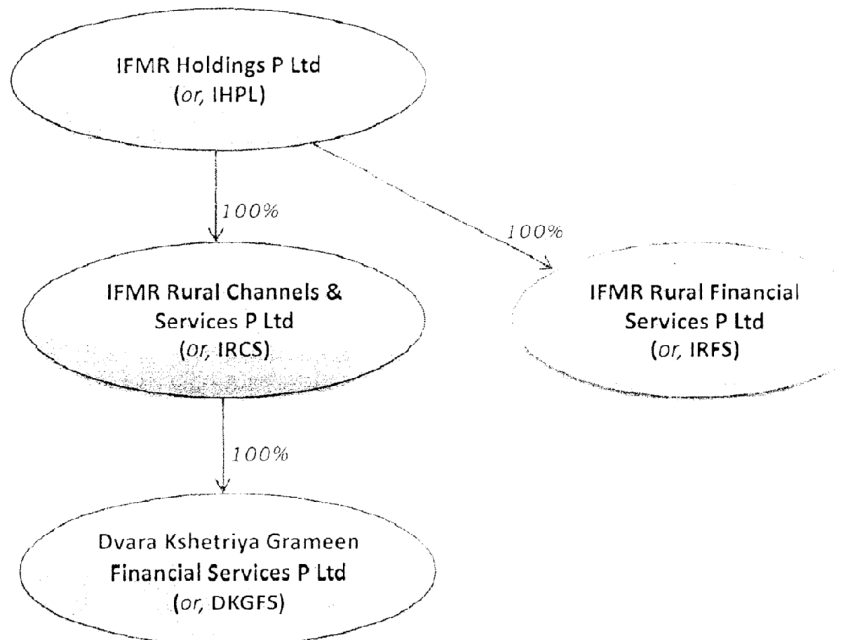
ledger extract and payment schedule made to the related party IFMR Rural Financial Services Pvt Ltd The assessee has not substantiated the relevance of the expense for running its day-to-day operations. The nature of services provided by the related party is ambiguous and not specific. If at all the expense is incurred for acquiring Trade-marks etc then the same should be capitalized and not claimed as revenue expense. The assessee has only managed to shift its profits to the related party by claiming Technology and Research & Development fee expenditure. Thus it is at best a colourable device adopted by the assessee for shifting profits.

3.5 Hence it is held that genuineness/relevance of the Technology and Research & Development fees expense claimed by the assessee of Rs.4.50 crore is not proved. The same is to be disallowed while computing the income chargeable under the, head 'business or profession'. The Technology and Research & Development fees of Rs.4,50,00,000/- paid by the assessee to its group concern M/s. IFMR Rural Financial Services Pvt. Ltd. is hereby disallowed and brought to tax for the financial year 2014-15 relevant to AY 2015-16."

4. Being aggrieved by assessment order, the assessee preferred an appeal before learned CIT(A). Before learned CIT(A), the assessee has filed detailed written submissions which has been reproduced at para 4.1.1 on page 4 to 6 of the CIT(A) order. The sum & substance of the arguments of the assessee before the CIT(A) was that expenditure incurred under the head 'technology services and research development fee' paid to M/s. IFMR Rural Financial Services Pvt. Ltd. is genuine in nature, which was paid for services received by the assessee including using KGFS Model framework and software to run day to day business of the assessee. The learned CIT(A), after considering relevant submissions of the assessee

and also taken note of various facts held that technology and research & development fees paid by the assessee to M/s. IFMR Rural Financial Services Pvt. Ltd. was for using KGFS Model framework, various service, software "PERDIX" etc., and thus, same become eligible for business expenditure. The relevant findings of the learned CIT(A) are as under:-

"4.1.2 I have considered the contents of the assessment order and the submissions of the assessee carefully. As could be seen from the details available on the records, the assessee company is a 100% subsidiary of M/s. IFMR Holdings P Ltd (or THPL). The assessee company, in-turn, has a 100% subsidiary company called M/s. Dvara Kshetriya Grameen Financial Services P Ltd (or DICGFS). Further, IHPL also has another 100% subsidiary company in the name and style of M/s. IFMR Rural Financial Services P Ltd (or IRFS). The Structure is -



4.1.3 *The assessee (IRCS) has floated a subsidiary company called M/s. Dvaru Kshetriya Grameen Financial Services P Ltd (or, DKGFS), as an NBFC, to deal in the business of rural finance. However, the assessee company has the entire infrastructure and the manpower required for doing the business. It has 221 branches all over the states of TN, Orissa, Uttarakhand states, while its subsidiary DKGFS has the license of NBFC. Hence the assessee let out its infrastructure including the 221 branch premises taken on lease, manpower etc to DKGFS. DKGFS is using these infrastructure and manpower for running its business of financing. Thus, for using the infrastructural facilities and manpower, DKGFS is required to compensate to the assessee company. For this purpose, the assessee is raising monthly invoices on DKGFS, by way of origination fee". The amount so paid is claimed as expenditure in the books of DKGFS, and as income in the books of the assessee company. This is the business model of the assessee.*

4.1.4 *Meanwhile, the other company M/s. IPMR Rural Financial Services P Ltd (or, IRFS) developed 'KGFS' Model framework, a distinctive model for providing financial products/services, which has been designed and developed keeping in mind the needs of the underserved segments of the population of various geographic locations, so as to maximize their financial well-being. In addition to letting the 'KGFS' trademark, IRFS is also offering various financial products and services, to the assessee and its subsidiaries, inter-alia, Technology, Operation Manuals, Incubation Services, Professional Services, training to employees of the assessee company and its subsidiaries in relation to said financial products/ services and other back and support services on a continuous basis. Further, IRFS also developed a software, called 'PERDIX' useful in the financial business, banking etc. As explained by the assessee, his software is useful for the financial business of the assessee's subsidiary company DKGFS. However, as DKGFS is already functioning by using the infrastructure and manpower of the assessee company, for the sake of convenience, IRFS let out the software to the assessee (by licensing to the assessee). For all these services received from IRFS, the assessee company is paying monthly fees. The assessee company in-turn, using the services etc received from IRFS, and the software for the*

business requirements of its subsidiary company (DKGFS), along with other infrastructure and manpower. Hence the assessee company started charging DKGFS for using the 'KGFS' Model framework services, software, by factoring the said KGFS' Model framework services, software licensing charges, etc , paid to IRFS into the "origination fee" charged from DKGFS.

4.1.5 Thus, the 'Technology and Research & Development Fee' of Rs.4,50,00,000/- paid to IRFS is for the use of 'KGFS' Model framework, various services, software 'PERDIX' etc., which in turn, were used for the business of the assessee's subsidiary company (DKGFS). Hence the 'Technology and Research & Development fee' paid amounts to business expenditure in the hands of the assessee company, as the 'KGFS' Model framework, various services, software 'PERDIX' etc. have also been used and its cost has been factored into, while charging the 'origination fee' from Its subsidiary company (DKGFS). Therefore the 'Technology and Research & Development Fee' of Rs.4,50,00,000/- paid to IRFS is an allowable expenditure in the hands of the assessee.

4.1.6 The next observation of the Assessing Officer is that the above payment of Rs.4,50,00,000/- to IRFS could for acquiring trade mark', where the expenses will be of capital in nature, This observation is not correct. Yes, licensing fee paid will amount to a capital expenditure for acquiring an 'intangible asset', if it was a lump-sum and/or onetime consideration. However, in the present case, payment (consideration) is on monthly basis. Hence the payment is not for acquiring any capital asset / license. It was a monthly payment for using the KGFS Model framework, various services, software 'PERDIX' etc. Therefore, the payment becomes a revenue expenditure and eligible for deduction while computing the taxable income.

4.1.7 In view of the above reasons, I am of the opinion that the 'Technology and Research & Development Fee' of Rs.4,50,00,000/- paid by the assessee to IRFS, was for using the 'KGFS' Model framework, various services, software PERDIX etc and accordingly becomes an eligible business expenditure. Therefore, the Assessing Officer is directed to allow the assessee's claim. The assessee succeeds in its appeals in this regard."

5. The learned DR submitted that the learned CIT(A) has erred in deleting additions made by the Assessing Officer towards disallowance of technology and research & development fees paid by the assessee to M/s. IFMR Rural Financial Services Pvt. Ltd., without appreciating fact that the assessee has failed to prove genuineness/ relevance of technology and research & development fees paid to its group concern. The DR further submitted that the assessee has not furnished relevant details along with corroborative evidence either at the time of assessment proceedings or at appellate proceedings to support its claim.

6. The learned A.R for the assessee, on the other hand, supporting order of the learned CIT(A), submitted that it is a matter of fact that Assessing Officer has not disputed genuineness of payment, but what was questioned is relevance of incurring said expenditure, even though the assessee has demonstrated with necessary evidences that it has availed service from M/s. IFMR Rural Financial Services Pvt. Ltd. and their KGFS Model framework software which is very necessary for the purpose of business of assessee. In addition, the

assessee has also used software developed by M/s. IFMR Rural Financial Services Pvt.Ltd. for which it has paid technology service fee and professional charges and the same is supported by necessary agreement and other evidences, including payment by cheque after deducting necessary TDS as applicable as per law. Therefore, the learned CIT(A), after apprising necessary facts has rightly held that expenditure incurred under the head 'technology and research & development fees' is revenue in nature, which is deductible.

7. We have heard both the parties, perused material available on record and gone through orders of the authorities below. The facts borne out from records indicate that the assessee is in the business of extending financial assistance to rural people had availed technology and professional services from its group company M/s. IFMR Rural Financial Services Pvt. Ltd. and paid technology fees of Rs.3 crores and professional charges of Rs.1.5 crores for the impugned assessment year. We further noted that the assessee is also using KGFS trademark, which is owned by M/s. IFMR Rural Financial Services Pvt. Ltd. along with various financial products / services which include technology operation manual,

incubation services, professional services and training to employees of the assessee company. The assessee is also using software called 'PERDIX' developed by M/s. IFMR Rural Financial Services Pvt. Ltd. which is useful in financial business and banking etc. As explained by the assessee, this software is useful for financial business of the assessee subsidiary company M/s. DKGFS since DKGFS is already functioning by using infrastructure and manpower of the assessee company for which the assessee has charged to its subsidiary, for the sake of convenience, M/s. IFMR Rural Financial Services Pvt. Ltd. has let out software to the assessee. The assessee company in turn is using services etc. received from M/s. IFMR Rural Financial Services Pvt. Ltd. and further, software developed by them for business requirements of its subsidiary company along with other infrastructure and manpower for which assessee company is charging DKGFS for using KFGS model framework, various services and software by factoring charges paid to said KFGS model framework, software licensing charges etc. to M/s. IFMR Rural Financial Services Pvt. Ltd. For all these services received from M/s. IRFS, the assessee company is paying monthly fees.

Therefore, from the above, it is very clear that payment made by the assessee to IRFS towards technology services and professional services for using KFGS model framework, various services, software "PERDIX" etc. which in turn were used for the business of the assessee subsidiary company, is in the nature of business expenditure in the hands of assessee company. Further, it is not a case of the Assessing Officer that the assessee has not justified payment for said services to its group companies. The Assessing Officer had also not doubted genuineness of transaction, but he had questioned necessity for incurring said expenditure. It is well settled position of law that Assessing Officer cannot sit in armchair of businessman and question relevance and necessity of incurring any particular expenditure. Further, he cannot go into analysis of cost benefit from a particular expenditure. But, what is required to be seen is expenditure incurred by the assessee is genuine which is supported by necessary evidences and further, such expenditure was incurred wholly and exclusively for purpose of business of the assessee. In this case, expenditure incurred by the assessee towards payment made to group companies for technology and research & development fees is supported by

an agreement between the parties, which clearly lays down nature of services and technology availed by the assessee. The assessee had also made payment by cheque after deducting applicable TDS as per law. From the above, it is very clear that there is no doubt about genuineness of payment and rendering of services by service provider. Therefore, we are of the considered view that expenditure incurred by the assessee towards payment made to M/s. IFMR Rural Financial Services Pvt. Ltd. for availing services and using their trademark, including software 'PERDIX' etc. is in the nature of revenue expenditure, which was incurred wholly and exclusively for the purpose of business of the assessee. We further noted that said expenditure is not capital in nature, because the assessee has not acquired any technical know-how or asset, but what was received from service provider was technology support services and professional services for managing day-to-day business affairs of the assessee. Therefore, said expenditure cannot be considered as capital in nature. The learned CIT(A), after considering relevant facts has rightly deleted additions made by the Assessing Officer. Hence, we are inclined to

uphold order of the learned CIT(A) and dismiss appeal filed by the revenue.

8. In the result, appeal filed by revenue is dismissed.

Order pronounced in the open court on 29th September, 2021

Sd/-

(वी.दुर्गा राव)

(V.Durga Rao)

न्यायिक सदस्य /Judicial Memberलेखा सदस्य / Accountant Member
चेन्नई/Chennai,

दिनांक/Dated 29th September, 2021

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आदेश की प्रतिलिपि अग्रेषित/Copy to:

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