

**आयकर अपीलीय अधिकरण “ई” न्यायपीठ मुंबई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“E” BENCH, MUMBAI**

**माननीय श्री विकास अवस्थी, न्यायिक सदस्य एवं**  
**माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।**  
**BEFORE HON’BLE SHRI VIKAS AWASTHY, JM AND**  
**HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM**  
(Hearing through Video Conferencing Mode)

आयकरअपील सं./ I.T.A. No.1525/Mum/2020  
(निर्धारण वर्ष / Assessment Year: 2014-15)

<b>DCIT – 9(2)(2)</b> R. No. 655A, 6 <sup>th</sup> floor Aaykar Bhavan M. K. Road, Mumbai-20	<b>बनाम</b> / Vs.	<b>M/s Edward Lifesciences (I) Pvt. Ltd.</b> 7 <sup>th</sup> floor, Unit 1 & 2 Techniplex-II Off S. V. Road, Goregaon (West) Mumbai-400 062
स्थायीलेखासं ./जीआइआरसं ./PAN/GIR No. <b>AAACB-4203-F</b>		
(अपीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

<b>Revenue by</b>	:	Shri Vijay Kumar Menon – Ld. Sr. DR
<b>Assessee by</b>	:	None

सुनवाई की तारीख/ <b>Date of Hearing</b>	:	28/09/2021
घोषणा की तारीख / <b>Date of Pronouncement</b>	:	04/10/2021

**आदेश / O R D E R**

**Manoj Kumar Aggarwal (Accountant Member)**

1. Aforesaid appeal by revenue for Assessment Year [AY] 2014-15 contest the order of Ld. Commissioner of Income-Tax (Appeals)-16, Mumbai [CIT(A)] dated 20/12/2019 on the following grounds of appeal:-

1. Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) was justified in deleting the disallowance made u/s. 37(1) of Rs.1,62,71,223/- without appreciating the fact that expenses incurred for providing travel facility and hospitality to its consultants/surgeons, fall outside the ambit of the IMC Regulations 2002?
2. Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) was justified in deleting the disallowance made u/s. 37(1) of Rs.1,62,71,223/- without appreciating the fact that the CBDT vide Circular No 5/2012 dated

01.08.2012 has clarified that the claim of any expenses incurred in violation of the provisions of the IMC Regulation, 2002 shall be inadmissible u/s. 37(1) of the Act?.

2. During hearing, none appeared for assessee. However, upon perusal of impugned order, it appears that the case is covered in assessee's favor by the earlier decisions. The Ld. Sr. DR pleaded for restoration of disallowance as made by Ld. AO.

3.1 The material facts of the case are that assessee being resident corporate assessee is stated to be engaged in distribution of heart therapy products and related medical equipments. The assessee sells products of cardiac care mainly to hospitals and other medical institutions. The assessee incurred expenditure of Rs.162.71 Lacs in travelling and hospitality of consultants / surgeons which were disallowed by Ld. AO in the light of Explanation to Sec.37 and The Indian Medical (Professional Conduct, Etiquette and Ethics) Regulations, 2002 and CBDT Circular No.5 of 2012.

3.2 These expenses were incurred on surgeons who were employed as consultants with the assessee. The assessee is stated to have rigorous screening process wherein surgeons specializing the practice areas where the company's products are sold, are hand-picked based on their expertise, years of experience, integrity etc. and are appointed as consultants for providing services to the company. These consultants would create brand awareness amongst fellow surgeons / medical institutes / hospitals about the latest developments. The consultants would educate the fellow surgeons/medical institutes/ hospitals about the utility/applicability of the company's products in various types of patients/patient conditions. In order to enable these consultants to gain knowledge about the latest developments / techniques / products in the

area of operations of the company, the company provides travel facilities so that the consultants can attend various medical conferences. These medical conferences are specific to the areas of operations of the company i.e. heart valves and act as a forum where companies and surgeons come together and discuss/spread awareness about the latest developments with respect to heart valves. Since the company operates in an highly sensitive segment wherein any lapse can lead to loss of life, it is imperative from the company's perspective that adequate knowledge/skill/awareness is created amongst its consultants (and through consultants) surgeon fraternity about the latest life-saving products and techniques so as to ensure the company is safeguarded from any reputational risk arising out of lapse of the part of the surgeons.

3.3 During assessment proceedings, the assessee submitted that the MCI regulations as well as CBDT Circular would not be applicable to the expenditure incurred by the assessee since no expenses were incurred for any unethical practices. However, rejecting the same Ld. AO disallowed the expenditure and added the same to the income of the assessee.

4. The Ld. CIT(A), in para 4.1.3 of the order, noted that similar issue stood covered in assessee's favor by the decision of Tribunal in assessee's own case for AYs 2010-11 (ITA No.1553/Mum/2016 20/11/2018) as well as for AY 2013-14 (ITA No.7198/Mum/2017 10/07/2019). The relevant findings of the Tribunal have been extracted in the impugned order. Accordingly, the additions were deleted against which the revenue is in further appeal before us.

5. After going through the impugned order, we find that the similar issue stood covered in assessee's own case by the decision of Tribunal

for AYs 2010-11 & 2013-14. No change in facts could be demonstrated before us. Therefore, no infirmity could be found in the impugned order.

6. The appeal stand dismissed.

*Order pronounced on 4<sup>th</sup> October, 2021.*

**Sd/-**

**(Vikas Awasthy)**

न्यायिक सदस्य / **Judicial Member**

**Sd/-**

**(Manoj Kumar Aggarwal)**

लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 04/10/2021  
Sr.PS, Dhananjay

**आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त(अपील) / The CIT(A)
4. आयकरआयुक्त/ CIT– concerned
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

**आदेशानुसार/ BY ORDER,**

**उप/सहायक पंजीकार (Dy./Asstt.Registrar)  
आयकरअपीलीयअधिकरण, मुंबई / ITAT, Mumbai.**