

**IN THE INCOME TAX APPELLATE TRIBUNAL DELHI
BENCH 'C', NEW DELHI**

**BEFORE SH. ANIL CHATURVEDI, ACCOUNTANT MEMBER
AND MS SUCHITRA KAMBLE, JUDICIAL MEMBER**

(THROUGH VIDEO CONFERENCING)

ITA Nos. 2987 & 2988/Del/2018
(Assessment Years : 2013-14 & 2014-15)

ACIT Circle – 14(2) New Delhi PAN : AAACM 7918 C	Vs.	KKM Management Centre Pvt. Ltd., 49, Community Centre New Friends Colony New Delhi-110 025
(APPELLANT)		(RESPONDENT)

Assessee by	Shri Rohit Jain, Adv. Ms. Deepashree Rao, Adv. Ms. Madhivisharna, Adv.
Revenue by	Shri N. K. Pandey, Sr. D.R.

Date of hearing:	11.10.2021
Date of Pronouncement:	14.10.2021

ORDER

PER ANIL CHATURVEDI, AM:

Both the appeals filed by the Revenue are directed against the order dated 08.02.2018 & 26.02.2018 of the Commissioner of Income Tax (Appeals)-36, New Delhi relating to Assessment Years 2013-14 & 2014-15 respectively.

2. Before us, at the outset, Learned AR submitted that the issue involved in both the appeals are identical except for the assessment years and amounts involved and therefore submitted that the submissions made by him for one appeal would be applicable to the other appeal also. Ld DR did not controvert the aforesaid submissions of Ld AR. In view of the aforesaid submissions of the Counsel, we for the sake of convenience proceed to dispose of both the appeals by a consolidated order but for the sake of reference refer to the facts for A.Y. 2013-14 (ITA No.2987/Del/2018).

3. The relevant facts as culled from the material on records are as under :

4. Assessee is a company stated to be engaged in the business of providing management consultancy and advisory services in India. Assessee filed its return of income for A.Y. 2013-14 on 27.11.2013 declaring total income of Rs.1,11,22,360/-. The case was selected for scrutiny and thereafter assessment was framed u/s 143(3) of the Act wherein the total income was determined at Rs.8,28,00,260/-. Aggrieved by the order of AO, assessee carried the matter before the CIT(A) who vide order dated 08.02.2018 in Appeal No.61/17-18 decided the issue in favour of the assessee. Aggrieved by the order of CIT(A), Revenue is now in appeal before us and has raised the following grounds:

“(i) *That on the facts and in the circumstances of the case and in law, the Ld CIT(A) has erred by not appreciating the facts available on record and in deleting the addition made on account of Claims of*

amount paid for employees taken on Secondment amounting to Rs.7,16,77,903/-.

- (ii) That on the facts and in the circumstances of the case and in law, the Ld CIT(A) has erred by not appreciating that 86% of the revenue of the Assessee is attributable to its Associates Company, GPI to which it is also billing 99% of its salary expenses on account of secondment cost. Hence the Ld CIT(A) has not appreciated that his arrangement has been structured merely in order to exaggerate expenses and evade taxes by the assessee as the seconded employees could have provided the services to the GPI merely as employees of GPI rather than as seconded employees of the assessee company.*
- (iii) That on the facts and in the circumstances of th case and in law, the Ld CIT(A) has erred by accepting the contention of the assessee by not bringing out and establishing what precise services were actually provided by the assessee company to GPI group companies. Without such an analysis it cannot be concluded if the secondment costs were undertaken wholly and exclusively for business purposes and hence are valid business expenditure u/s 37 of the Act or if they were reasonable and not excessive within the meaning of section 40A(2)(a) of the Act.*
- (iv) That the ground of appeal are without prejudice to each other.*
- (v) That the appellant craves to add, alter amend or forego any ground(s) of the appeal raised above at the time of hearing.”*

5. Before us, at the outset, Learned DR submitted that though the Revenue has raised various grounds but the sole controversy is with respect to the addition of Rs.7,16,77,903/- made by AO but deleted by CIT(A).

6. During the course of assessment proceedings, AO on perusing the Profit and Loss account noted that the total salary expenses debited to P&L account is Rs.14.43 crore (rounded off) and the total payment made to secondment was Rs. 14.33 crore (rounded off) which worked out to Rs.99.28% of the total salary. He also noted that the company operated from rental premises which was taken from Godfrey Philips India (P) Ltd. (GPI) to which

it had paid rent, which included for the use of all facilities of office equipments. Assessee was therefore asked to show-cause as to who was the real and economic employer of the secondment and why the proportionate expenses claimed by the assessee and paid by Godfrey Philips India (P) Ltd. (GPI) on account of secondment should not be attributable to the business of Godfrey Philips India (P) Ltd. Assessee made the detailed submissions which were not found acceptable to AO. AO did not accept the claim of the assessee that the employees who have been taken by secondment were exclusively working with the assessee. AO was of the view that the employees were working for the entire group at overall level. He therefore held that the secondment agreement pursuant to which the secondment charges were paid to be not a genuine agreement and seconded employees being not working wholly and exclusively for the assessee. He also concluded that assessee was not a real and economic employer of the seconded employees as according to him assessee did not have effective control over the seconded employees. He accordingly considered 50% of the total secondment cost of Rs.14,33,55,806/- i.e. Rs.7,16,77,903/- to be not allowable and accordingly disallowed the same.

7. Aggrieved by the order of AO, assessee carried the matter before the CIT(A) who after considering the submissions of the assessee deleted the addition made by AO. While deleting the addition, CIT(A) has given a finding that the conclusion of the AO of the secondment agreement being not a genuine agreement and the seconded employees to be not working wholly and exclusively for the assessee was not convincing for the reason that seconded

employees was originally employed in the flagship group company i.e. Godfrey Philips India (P) Ltd. and seconded to the assessee on cost to company basis, without any mark-up and the entire cost of employees was cross charged by GPI. CIT(A) also noted that as against the salary paid to the seconded employees, the assessee had received professional fee aggregating to Rs.22.74 crore for providing management consultancy and advisory services and the TDS was also deducted on the payment made to GPI. She further noted that seconded employees was taken on seconded in A.Y. 2011-12. She for all the reasons stated in her order deleted the addition made by AO. Aggrieved by the order of CIT(A), Revenue is now before us.

8. Before us, Learned DR took us to the finding of AO and supported the order of AO.

9. Learned AR on the other hand reiterated the submissions made before the AO and CIT(A) and further submitted that the assessee was rendering management consultancy services to the group entities of K.K. Modi Group by availing services of seconded employees for which it was setup and against the expenditure of Rs.14.33 crore (rounded off) on the seconded employees, it has earned Revenue of Rs.22.74 core (rounded off) from management services rendered to the group employees. He further submitted that rendering of management consultancy services and payment of fees paid by the assessee has not been doubted by the AO. He further submitted that ad hoc disallowance made by AO was not based on any material on record to demonstrate that the

seconded employees were not working wholly and exclusively for the assessee. He thus supported the order of CIT(A).

10. We have heard the rival submissions and perused the materials available on record. The issue in the present ground is with respect to the deleting the addition of Rs.7.16 crore (rounded off) that was made by AO but deleted by the CIT(A). Before us, Learned AR has pointed out that in A.Y. 2011-12, assessee had taken on seconded employees who were originally employee in the flagship group company i.e. Godfrey Philips India (P) Ltd. and then seconded to the assessee on cost to company basis, without any mark-up. It has been further pointed by the Learned AR that no disallowance of secondment cost to employees was disallowed by the AO in earlier years. The aforesaid contention of the Learned AR has not controverted by the Revenue. We find that AO on one hand had held the secondment agreement to be not a genuine agreement but on the other hand had disallowed only 50% of the expenditure which according to us appear to be contrary. We further find that CIT(A) for the reasons stated in the order has deleted the addition. Before us, Revenue has not pointed any fallacy in the findings of CIT(A). In such a situation, we find no reason to interfere with the order of CIT(A) and **thus the ground of Revenue is dismissed.**

11. In the result, appeal of the Revenue in ITA No. 2987/Del/2018 for A.Y. 2013-14 is dismissed.

12. **As far as ITA No.2988/Del/2018 for A.Y. 2014-15** is concerned, before us, both the parties have submitted that the issue raised in the present appeal for A.Y. 2014-15 is identical to that of ITA No.2987/Del/2018. We have hereinabove while deciding the appeal for A.Y. 2013-14 in ITA No.2987/Del/2018 and for the reasons stated therein have dismissed the grounds of Revenue. We for similar reasons dismiss the grounds of Revenue in the present appeal also. **Thus the grounds of Revenue are dismissed.**

13. In the result, both appeals of the Revenue are dismissed.

Order pronounced in the open court on 14.10.2021

**Sd/-
(SUCHITRA KAMBLE)
JUDICIAL MEMBER**

**Sd/-
(ANIL CHATURVEDI)
ACCOUNTANT MEMBER**

Date:- 14.10.2021

*PY**

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI