

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "B": NEW DELHI
(Through Video Conferencing)**

**BEFORE
SHRI O. P. KANT, ACCOUNTANT MEMBER
AND
MS. SUCHITRA KAMBLE, JUDICIAL MEMBER**

ITA No. 4173/Del/2018
Asstt. Year 2013-14

DCIT, Circle-6(2) New Delhi.	Vs.	Concentrix Daksh Services India Pvt. Ltd. Building No. 14, Tower C&D, 17 th Floor, DLF Cyber City, DLF IT(SEZ), Sector 24 & 25A, DLF Phase-III, Gurgaon Haryana Pin 122002. PAN AABCD4187D
(Appellant)		(Respondent)

Assessee by:	Shri G.C. Srivastava, Advocate, Shri Mayank Patawai, CA
Department by :	Shri Jagdish Singh, Sr. DR
Date of Hearing	11/11/2021
Date of pronouncement	16/11/2021

ORDER

PER SUCHITRA KAMBLE, JM

This appeal is filed by the revenue against the order dated 31.03.2018 passed by the CIT (A)44, New Delhi for Assessment Year 2013-14.

2. The grounds of appeal are as under :-

“1. Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) is legally justified in allowing the Employees Stock Option expenses amounting to Rs. 2,00,22,429/- debited by the assessee company to its Profit and Loss Account to be claimed as expenses in contravention to the provision of the Income Tax Act, 1961.

2. Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) is legally justified in deleting the disallowance of performance bonus according to provisions of section 43B of the Income Tax Act, 1961 amounting to Rs. 1,33,32,006/-

3. The appellant craves leave for reserving the right to amend, modify, alter, add or forego any i ground(s) of appeal at any time before or during the hearing of this appeal. “

3. The assessee company is engaged in the business of IT enabled services in the nature of customer relationship management. The assessee company e-filed its return of income on 30.11.2013 declaring an income of Rs. 3,08,98,21,210/-. The Assessing Officer made addition on account of transfer pricing adjustment amounting to Rs. 2,15,45,770/-, disallowance of employee stock option expenses amounting to Rs. 2,00,22,429/-. The Assessing Officer further made disallowance of claim of expenses u/s 43B amounting to Rs. 1,33,32,006/-, adjustment to turnover u/s 10AA amounting to Rs. 3,84,07,29,845/- and also made deduction u/s 10AA towards Rs. 27,05,25,242/-.

4. Being aggrieved by the assessment order, the assessee filed appeal before the CIT(A). The CIT(A) partly allowed the appeal of the assessee.

5. The Ld. DR submitted that the CIT(A) was not justified in allowing the employees stock option expenses debited by the assessee company to its profit and loss account to be claimed as expenses in contribution to the provision of Income Tax Act 1961. The Ld. DR as regards ground No. 2 submitted that the CIT(A) was not correct in deleting the disallowance of performance bonus according to provisions of section 43B of the Income Tax Act 1961. Ld. DR relied upon the assessment order.

6. Ld. AR relied upon the order of the CIT(A).

7. We have heard both the parties and perused all the relevant material available on record. As regards ground No. 1 related to issue regarding employees stock option expenses, the issue is covered by the jurisdictional High Court in case of CIT vs. Lemon Tree Hotels Ltd. (ITA No. 107/2015 order dated 18.8.2015). The CIT(A) in accordance with ratio laid down by the Hon'ble Delhi High Court deleted the said addition. There is no need to interfere with the findings of the CIT(A). Hence ground No. 1 is dismissed. As regards ground No. 2, the CIT(A) has given a categorical findings that six incentives was given to the employees when

certain performances are made and therefore it cannot be termed as bonus applicable in the definition of payment of bonus Act 1965. The Hon'ble Delhi High Court in case of CIT vs. Shriram Piston & Rings Ltd. vs. CIT 307 ITR 369 has categorically held that good work reward does not fall under the category recognised by the payment of bonus Act. Therefore, there is no need to interfere with the findings of the CIT(A). Ground No.2 is dismissed.

8. In the result the appeal of the revenue is dismissed

Order pronounced in the open court in presence of both the parties on 16th November, 2021.

**sd/-
(O.P. KANT)
ACCOUNTANT MEMBER**

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

Dated: 16/11/2021

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1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi