

**IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'B' BENCH,  
NEW DELHI (THROUGH VIDEO CONFERENCING]**

**BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER, AND  
SHRI AMIT SHUKLA, JUDICIAL MEMBER**

**ITA No. 2428/DEL/2016  
[A.Y 2011-12]**

**M/s KPMG Global Services Pvt Ltd  
8<sup>th</sup> Floor, Tower 'B' Building No. 10  
DLF Cyber City, Phase - II,  
Gurgaon, Haryana**

**Vs.**

**The Dy. C.I.T  
Circle - 1(1)  
Gurgaon, Haryana**

**PAN: AAECK 1495 L  
(Applicant)**

**(Respondent)**

**Assessee By : Shri Ajit Kumar Jain, CA  
Shri Gaurav Gupta, Adv**

**Department By : Shri Pranav Kumar, Sr. DR**

**Date of Hearing : 15.11.2021  
Date of Pronouncement : 30.11.2021**

**ORDER**

**PER N.K. BILLAIYA, ACCOUNTANT MEMBER,**

This appeal by the assessee is preferred against the order of the Commissioner of Income Tax [Appeals] - 1, Gurgaon dated 17.02.2016 pertaining to assessment year 2011-12.

2. The substantive grievance of the assessee is that the ld. CIT(A) erred in confirming the additions aggregating to Rs. 99,35,456/- being the amount of reimbursement of proportionate amount of office rent and other expenses from group entities treated as income under the head “income from other sources” by the AO.

3. Alternatively, the assessee has claimed deduction of corresponding expenses to be allowed from the alleged “income from other sources”.

4. Briefly stated, the facts of the case are that the appellant was incorporated on 21.10.2010 as a private limited company with the main object to provide business advisory services along with business and management consultancy services to different industry sectors.

5. Since F.Y. 2010-11 is the first year of incorporation, the appellant took certain office premises on lease from DLF, Cyber City Developers Limited vide lease dated 21.01.2011.

6. Since the appellant had not commenced business operations during the FY under consideration, it granted use of certain portion out of total leased office space to its group entity KPMG and KPMG Resource Centre Pvt Ltd [KRC] for their respective business activities. It was agreed that KPMG and KPMG Resource Centre Pvt Ltd will reimburse the appellant the actual cost of rent and related expenses incurred by the appellant. The actual expenses of reimbursement by KPMG and KRC is as under:

KPMG	Rs. 37,23,694/-
KRC	<u>Rs. 62,11,762/-</u>
Total	<u>Rs. 99,35,456/-.</u>

7. The aforesaid sum of Rs. 99,35,456/- was recorded by the appellant in its books of account as a 'recoverable sum' on the asset side of the balance sheet. TDS amount on this amount of Rs. 9,93,545/- was deducted and deposited by the deductor, i.e., KPMG and KRC.

8. The assessee filed its return of income declaring total income at NIL and claimed credit of TDS.

9. During the course of scrutiny assessment proceedings, the Assessing Officer was of the firm belief that the amount of rent and expenses recoverable from group entities is taxable under the head 'income from other sources' and accordingly, taxed the same.

10. The assessee carried the matter before the Id. CIT(A), but without any success.

11. Before us, the Id. counsel for the assessee vehemently stated that the amounts reimbursed by KRC and KPMG are directly related to the corresponding rent and other expenses incurred by the assessee. It is the say of the Id. counsel for the assessee that the reimbursement comprised rent paid by the assessee to DLF amounting to Rs.38.70 lakhs and other office running and maintenance expenses amounting to Rs. 57,17,735/-.

12. The learned counsel further stated that the expenses incurred by the assessee were cross charged to KRC and KPMG without any markup/profit element. The Id counsel vehemently stated that in the absence of any markup/profit element, the expenses of reimbursement

received by the assessee is not in the nature of income and not liable to tax.

13. Per contra the ld. DR strongly supported the findings of the Assessing Officer.

14. We have carefully considered the orders of the authorities below. The undisputed fact is that the assessee was incorporated during the year under consideration itself and had no business activities. It is also not in dispute that the assessee had taken the leased premises from DLF. It is also not in dispute that the assessee has paid the rent to DLF and incurred certain expenses in the nature of running and maintenance. It is also not in dispute that the assessee had allowed group entities KPMG and KRC to use certain portion of the leased premises for the purposes of their business activities.

15. We find that the expenses of Rs. 99,35, 456/- have been shown as 'recoverable sum' on the asset side of the balance sheet of the assessee.

We further find that corresponding liability of rent expenses have been shown on liability side of the balance sheet.

16. On identical set of facts, the Hon'ble High Court of Delhi in the case of CIT Vs. Fortis Health Care Limited 181 Taxmann.com 257 has held as under:

*"Having heard the learned counsel for the revenue, we are of the view that the impugned judgement of the Tribunal deserves to be upheld. Two concurrent authorities i.e. the CIT(A) as well as the Tribunal have found that money received by the assessee from SRL was nothing but a reimbursement of expenses incurred by the assessee in respect of common services extended by the assessee to SRL. The said authorities have also found as a fact that the expenses incurred by the assessee are equivalent to the monies received by the assessee from SRL and hence no income would arise to the assessee if the expenses are set off there being direct nexus between the two.*

In view of these findings of fact, we are of the opinion that no question of law much less question of fact as horizon for a consideration. In the result appeal is dismissed".

17. The facts of the case in hand are similar to the facts considered by the Hon'ble Jurisdictional High Court of Delhi, as mentioned elsewhere, the expenses/reimbursement by KPMG and KRC are without any markup/profit element by the assessee. Therefore, we do not find any merit in treating the reimbursement as income from other sources. We, accordingly, direct the Assessing Officer to delete the addition.

18. Since the appeal of the assessee is allowed on the main grievance, the alternative plea becomes otiose.

19. In the result the appeal of the assessee in ITA No. 2428/DEL/2016 is allowed.

The order is pronounced in the open court on 30.11.2021.

**Sd/-**

**[AMIT SHUKLA]  
JUDICIAL MEMBER**

**Sd/-**

**[N.K. BILLAIYA]  
ACCOUNTANT MEMBER**

Dated: 30<sup>th</sup> November, 2021

VL/

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,  
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr.PS/PS	
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Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	