

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“A” BENCH: BANGALORE**

**BEFORE SHRI N.V. VASUDEVAN, VICE PRESIDENT  
AND  
SHRI B.R. BASKARAN, ACCOUNTANT MEMBER**

IT(IT)A Nos.32 & 33/Bang/2020
Assessment Years : 2015-16 & 2016-17

M/s. Landmark Retail Limited [holding company] in the case of LMG International Limited C/o Lifestyle International Private Limited, Building No.3 West Wing, OFF HAL Airport Road Yamlur, Bengaluru 560 087  <b>PAN NO : AACCL4201B</b>	<b>Vs.</b>	Deputy Commissioner of Income-tax (IT) Circle-1(2) Bengaluru
<b>APPELLANT</b>		<b>RESPONDENT</b>

<b>Appellant by</b>	:	Shri K.R. Vasudevan, A.R.
<b>Respondent by</b>	:	Shri Sankar Ganesh K., D.R.

Date of Hearing	:	21.02.2022
Date of Pronouncement	:	23.02.2022

**ORDER**

**PER B.R. BASKARAN, ACCOUNTANT MEMBER:**

Both the appeals filed by the assessee are directed against the orders passed by Ld CIT(A)-12, Bengaluru and they relate to the assessment years 2015-16 and 2016-17.

2. The Ld A.R submitted that the Ld CIT(A) has dismissed both the appeals holding them to be invalid and non-est. He submitted that the returns of income for both the years under consideration

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was filed by M/s LMG International Limited, which is a foreign company incorporated in British Virgin Island. The assessing officer passed the assessment order for AY 2015-16 on 08-02-2018 and for AY 2016-17 on 18.01.2019. However, prior to the passing of the above said assessment orders, the assessee M/s LMG International had been dissolved on 29<sup>th</sup> May 2017. However, the assessee did not inform the fact of dissolution of the company to the assessing officer during the course of assessment proceedings.

3. The assessee challenged the assessment orders by filing appeals before Ld CIT(A). The appeal paper relating to AY 2015-16 was signed by Shri Sayan Bandyopadhyay as authorised representative of the assessee and it was filed on 13.04.2018. The appeal paper relating to AY 2016-17 was signed by Shri Jagdish Mulji Solanki as authorised representative of the assessee and it was filed on 18-02-2019.

4. Before Ld CIT(A), the fact of dissolution of the company was informed. The AO was also informed about the dissolution only on 19-02-2019. The Ld CIT(A) dismissed the appeal filed for AY 2015-16 with the following observations:-

*“12. I also find that this information which is in exclusive knowledge of LMG International Limited and this was not submitted before the AO at the time of assessment. This information was filed before AO for the first time on 19.2.2019. In the proceedings before the AO no information was submitted that the company is dissolved. The AO does not have any means to verify the dissolution of a foreign entity. The appellant's AR attended the hearings before the AO and the order was appealed against. Even a draft assessment order was provided by the AO to the appellant which was not objected to. On the other hand, it was intimated to the AO that the appellant does not propose to prefer any objection before DRP.*

*13. Further, I find that although the event of dissolution is an exclusive knowledge of employees and ARs of the LMG International Limited still Shri Sayan Bandopadhyay has signed the Form 35 as the authorized representative of LMG International Limited about 10 months after date of dissolution.*

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14. I find that once the appellant company [LMG International Limited] is dissolved Shri Sayan Bandopadhyay no longer remains the authorised representative. Therefore, the appeal filed is not verified properly and is therefore invalid and non-est.”

On identical reasoning, the Ld CIT(A) dismissed the appeal filed by the assessee for AY 2016-17. Aggrieved, the present appeals have been filed before us.

5. We notice that the Ld CIT(A) has passed the orders for both the years in the following name:-

“Landmark Retail Limited (holding company)  
For LMG International Limited dissolved on 27.05.17.”

Hence both the appeals have been filed in the name as mentioned by Ld CIT(A) in his order.

6. We have earlier noticed that M/s LMG International Limited is a foreign company is registered in British Virgin Islands and hence the status of the assessee under Income tax Act is “Non-resident”. M/s Landmark Retail Limited, the holding company is also registered in British Virgin Island and hence it is also a “Non-resident”. We noticed earlier that the Ld CIT(A) has dismissed both the appeals only for the reason that the persons who signed the appeal papers cannot be authorised representative.

7. At this stage, it is pertinent to refer to the decision rendered by Hon’ble Supreme Court in the case of CIT vs. Gopal Shri Scrips (P) Ltd (2019)(104 taxmann.com 192)(SC), wherein it was held by Hon’ble Apex Court held that the provisions of Chapter XV of Income tax Act would govern the cases of “discontinuous of business or dissolution”. The provisions of sec.160 deal with “Representative Assessee” and sec.163 lists out who can be regarded as agent. In

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case of non-residents covered u/s 9(1) of the Act, above said provisions would apply.

8. We notice that the provisions of sec.176 and 177 deals with those kind of cases and we notice that the Ld CIT(A) did not consider the above said provisions before dismissing the appeals of the assessee. Under these set of facts, we are of the view that the impugned orders passed by Ld CIT(A) in both the years under consideration cannot be sustained. Accordingly, we set aside the order passed by Ld CIT(A) and restore all the issues to his file for examining them afresh. The Ld CIT(A) may examine the validity of the appeal papers filed by the assessee in terms of Chapter XV of the Income tax Act. If the appeal papers filed by the assessee is found to be defective, the Ld CIT(A) shall provide an opportunity to the assessee to rectify the defects. After rectifying the defects, the Ld CIT(A) shall adjudicate the grounds in both the appeals after affording adequate opportunity of being heard to the assessee.

9. In the result, both the appeals of the assessee are treated as allowed for statistical purposes.

Order pronounced in the open court on 23<sup>rd</sup> Feb, 2022.

**Sd/-**  
**(N.V. Vasudevan)**  
**Vice President**

**Sd/-**  
**(B.R. Baskaran)**  
**Accountant Member**

Bangalore,  
Dated 23<sup>rd</sup> Feb, 2022.  
VG/SPS

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**Copy to:**

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar, ITAT, Bangalore.