

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

**BEFORE SH. ANIL CHATURVEDI, ACCOUNTANT MEMBER
AND SH. YOGESH KUMAR US, JUDICIAL MEMBER**

ITA No. 4838/Del/2018
(for Assessment Year : 2015-16)

JCIT (OSD) Central Circle – 31 New Delhi – 110 055 PAN No. AAAC 4415 H (APPELLANT)	Vs.	Tetra Tech India Ltd. 1120-21, 11 th Floor, Jasola, Tower-A, Jasola District Centre, Delhi-110 025 (RESPONDENT)
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Assessee by	--None--
Revenue by	Shri Sanjay Tripathi, Sr. D.R.

Date of hearing:	05.05.2022
Date of Pronouncement:	05.05.2022

ORDER

PER ANIL CHATURVEDI, AM :

This appeal filed by the Revenue is directed against the order dated 25.04.2018 of the Commissioner of Income Tax (Appeals)-30, New Delhi relating to Assessment Year 2015-16.

2. Brief facts of the case as culled out from the material on record are as under:-

3. Assessee is a company which is stated to be engaged in the business of providing engineering consultancy services in the field

of averment management, infrastructure management, water supply and drainage, sanitation watershed management etc. Assessee electronically filed its return of income for A.Y. 2015-16 on 29.11.2015 declaring loss of Rs.5,35,66,819/-. The case was selected for scrutiny and thereafter assessment was framed u/s 143(3) of the Act vide order dated 30.11.2017 and the total loss was determined at Rs.3,19,73,578/-. Aggrieved by the order of AO, assessee carried the matter before CIT(A) who vide order dated 25.04.2018 in Appeal No.258/17-18/2921 deleted the addition made by AO and thus allowed the appeal of the assessee. Aggrieved by the order of CIT(A). Revenue is now in appeal and has raised the following grounds:

1. *“That On the facts and in the circumstances of the case and in law the Ld. CIT(A) erred in holding that the onus of providing the reasonableness of the expenses is on the department ignoring the principle laid down in 78 ITR 268 (SC).*
2. *That On the facts and in the circumstances of the case and in law, the Ld CIT(A) erred in not appreciating the fact that the basis on which the disallowance was made the expenses claimed by the assessee in the immediate preceding year (A.Y. 2014-15).*
3. *That On the facts and in the circumstances of the case the Ld. CIT(A) erred in holding that principle of neutrality was applicable in this case ignoring the important fact that the payee associate company had huge accumulated losses.*
4. *That the grounds of appeal are without prejudice to each other.*
5. *That the appellant craves leave to add, amend, alter or forgo any grounds(s) of appeal either before or at the time hearing of the appeal.”*

4. The case file of the appeal reveals that the appeal was filed by the assessee in the year 2018. The matter was fixed for hearing for the first time on 08.09.2021. On that day, there was no appearance on behalf of the assessee nor any adjournment application was filed. The matter was therefore adjourned for hearing for 22.11.2021 and the notice was issued through registered post. It is seen that thereafter the case for hearing was fixed on various dates but in all those dates there is no appearance on behalf of the assessee nor any adjournment application was moved. The details of the dates when the matter was listed for hearing but was adjourned on account of non appearance by assessee is tabulated hereunder:

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|----|------------|---|------------------------------------|
| 1. | 08.09.2021 | - | matter was adjourned to 22.11.2021 |
| 2. | 22.11.2021 | - | matter was adjourned to 10.02.2022 |
| 3. | 10.02.2022 | - | matter was adjourned to 05.05.2022 |

5. On the present date also, there is no appearance from the side of assessee nor there is any request for adjournment. In such a situation, we proceed to dispose of the appeals *ex parte qua* the assessee and after hearing the Learned DR.

6. Before us, at the outset, Learned DR submitted that though Revenue has raised various grounds but the sole controversy is with respect to the deleting of the addition of Rs.2,11,46,706/- made by AO.

7. During the course of assessment proceedings, AO noticed that assessee had paid expenses to various parties aggregating to Rs.7,04,89,022/-, being the parties covered u/s 40A(2)(b) of the Act (the details of which are tabulated at Page 3 of the assessment order). The assessee was asked to justify the abnormal increase in expenditure in comparison to that of earlier years and also show-cause as to why the same be not disallowed u/s 40A(2)(b) of the Act. Assessee made the submissions which were not found acceptable to AO. AO was of the view that the expenses should be reasonable keeping in view the receipts offered for taxation. He thereafter noted that ratio of expenses/receipts in the immediate preceding year was 70% approximately whereas it had increased to 279.7% which according to him was excessive. He therefore held 30% of the total expenditure i.e. Rs.2,11,46,706/- to be excessive and disallowed the same u/s 40A(2)(b) of the Act.

8. Aggrieved by the order of AO, assessee carried the matter before CIT(A). CIT(A) after noting the detailed explanation furnished by the assessee in his order has deleted the addition by observing as under:

“I have examined the facts at hand. Upon being required, the appellant has clarified that during the year under consideration, the services were provided for 12 months vis-a-vis those provided in the earlier year which were for a period of 6 months only. This being the situation, the expenses logically have also grown. The AO has not brought on record any justification for adhoc disallowance of 30%. The appellant has also pointed out the transactions are tax neutral. The appellant has also pointed out (as was pointed out before the AO) that services of all

employees were terminated in F.Y. 2013-14, and now services of professionals are being taken. This is also one of the reasons for increase in professional charges. I also find that there is no case whereby such expenditure cannot be treated be excessive or unreasonable vis-a-vis fair market value of the services. No comparable instance has been brought on record.”

9. Aggrieved by the order of CIT(A), Revenue is now before us.

10. Before us, Learned DR supported the order of AO.

11. We have heard Learned DR and perused the material available on record. The issue in the present ground is with respect to the deleting of adhoc disallowance of 30% made by AO which has been deleted by CIT(A). We find that CIT(A) while deleting the addition has given a finding that AO has not brought on record any justification for adhoc disallowance of 30% and further the services were provided for 12 months in the year under consideration as again a period of 6 months in the earlier years. He has further given a finding that no comparable instance has been placed by Revenue so as to justify the disallowance u/s 40A(2)(b) of the Act. Before us, no fallacy in the findings of CIT(A) has been pointed out by Revenue. In such a situation, we find no reason to interfere in the order of CIT(A) and **thus the ground of Revenue is dismissed.**

12. In the result, appeal of the Revenue is dismissed.

Order pronounced in the open court on 05.05.2022

**Sd/-
(YOGESH KUMAR US)
JUDICIAL MEMBER**

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

Date:- 05.05.2022
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Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI