

आयकर अपीलीय अधिकरण "बी" न्यायपीठ पुणे में ।  
IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, PUNE

BEFORE SHRI R.S. SYAL, VICE PRESIDENT  
AND  
SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER

आयकर अपील सं. / ITA Nos.1601 & 571/PUN/2019  
निर्धारण वर्ष / Assessment Years : 2015-16 & 2016-17

Asst. Commissioner of Income Tax,  
Circle – 7, Pune

.....अपीलार्थी / Appellant

बनाम / V/s.

Tata Autocomp Hendrickson Suspensions Pvt. Ltd.,  
Gate No. 431/1-434, Medankar Wadi,  
Chakan Alandi Road, Chakan,  
Pune – 410501

PAN : AACCT4769Q

.....प्रत्यर्थी / Respondent

प्रत्याक्षेप सं. / CO No.2/PUN/2022  
निर्धारण वर्ष / Assessment Year : 2016-17

Tata Autocomp Hendrickson Suspensions Pvt. Ltd.,  
Gate No. 431/1-434, Medankar Wadi,  
Chakan Alandi Road, Chakan,  
Pune – 410501

PAN : AACCT4769Q

.....अपीलार्थी / Appellant

बनाम / V/s.

Asst. Commissioner of Income Tax,  
Circle – 7, Pune

.....प्रत्यर्थी / Respondent

Assessee by : Shri Ketan Ved  
Revenue by : Shri Kalika Singh

सुनवाई की तारीख / Date of Hearing : 25-05-2022  
घोषणा की तारीख / Date of Pronouncement : 06-06-2022

## **आदेश / ORDER**

### **PER S.S. VISWANETHRA RAVI, JM :**

These two appeals by the Revenue against the separate order dated 31-07-2019 and 31-01-2019 passed by the Commissioner of Income Tax (Appeals)-5, Pune [‘CIT(A)’] for assessment years 2015-16 and 2016-17. The assessee has filed Cross Objections in the appeal filed by the Revenue in ITA No. 571/PUN/2019.

2. Upon hearing, we note that the issues raised in both the appeals and cross objections are similar basing on the same identical facts. Therefore, with the consent of both the parties, we proceed to dispose off above said appeals and cross objections together and pass a consolidated order for the sake of convenience.

3. First, we shall take up the appeal by the Revenue in ITA No. 1601/PUN/2019 for A.Y. 2015-16.

4. The Revenue raised two grounds of appeal amongst which the only issue emanates for our consideration is as to whether the CIT(A) is justified in deleting the addition of Rs.7,29,16,355/- made on account of administrative service charges in the facts and circumstances of the case.

5. Heard both the parties and perused the material available on record. We note that the AO discussed the issue in Para No. 5. For not furnishing documentary evidences in support of claim held the administrative service charges paid by the assessee to TACO are not allowable. The CIT(A)

discussed the same in Page No. 8 at Para No. 4 of the impugned order and by following the order of ITAT for A.Y. 2012-13 in assessee's own case held the same are allowable. We note that this Tribunal considered the issue in detail from A.Ys. 2007-08 to 2011-12 and held the assessee has received services from TACO for which the administrative service charges were paid. Further, we note the Tribunal for A.Ys. 2012-13 and 2014-15 which is at Page No. 153 of the paper book by following the order of Co-ordinate Bench of this Tribunal in assessee's own case for A.Y. 2006-07 held the issue in favour of the assessee. The relevant portions of the said order at Para Nos. 13 to 15 are reproduced here-in-below for ready reference :

*"C. Adjudication of the issue- Administrative Service Charges:*

*13. The Ld. Sr. Counsel for the assessee invited our attention to Page 498 of the Paper book in the case of Tata Johnson Controls Automotive Limited Vs. The Dy. Commissioner of Income Tax, in ITA No.1450/PN/2011 and cross appeal in ITA No.1454/PN/2011 for the assessment year 2006-07 decided on 09.12.2015 and therein, in the assessee's appeal, ground No.2 is as follows:*

*"2. The learned CIT(A) erred in confirming the disallowance of administrative service charges paid to Tata Autocomp Systems Ltd. ("TACO") to the extent of Rs.1,50,63,122 out of Rs.2,00,84,162 under section 40(A)(2)(b) of the Income-tax Act on the grounds that the same is excessive and unreasonable having regard to services rendered by TACO and the legitimate business needs of the appellant."*

*The facts relates to the issue that the assessee therein had claimed an expenditure of Rs.2,00,84,162/- on account of payment made to Tata Autocomp Systems Ltd ( in short „TACO“) on account of Administrative Support Services taken. That on this issue, the Tribunal has held as follows:*

*"32. Now, coming to the case of quantum of remuneration to be allowed in the hands of assessee, where the CIT(A) has allowed expenditure @ 25% of total expenses and no basis has been given by the CIT(A) to allow the said expenditure @ 25% of the total. There is no basis for measuring such services and in the absence of any evidence brought on record to establish that the expenditure incurred by the assessee was excessive i.e. more than market value of the said services, we find no merit in the orders of authorities below in invoking provisions of section 40A(2)(a) of the Act. Accordingly, we modify the order of CIT(A) and direct the Assessing Officer to allow the expenditure in totality in the hands of the assessee as the said expenditure has been laid down in terms of the agreement agreed upon between the parties and is for carrying on of the business of the*

*assessee more efficiently and is allowable as business expenditure. The grounds of appeal No.2 and 3 raised by the assessee are allowed and ground of appeal No.2 raised by the Revenue is dismissed."*

13.1 The Ld. Sr. Counsel for the assessee further submitted that in this case referred before us (*supra.*), the Ld. CIT(Appeals) has given partial relief to the assessee whereas, the Tribunal reversing the said order of the Ld. CIT(Appeals) gave full relief to the assessee allowing the said expenditure in totality as business expenditure. The Ld. Sr. Counsel for the assessee further referred to the decision of the Pune Bench of the Tribunal in another case in ITA No.1029/PN/2013 & Ors for the assessment year 2006-07 in the case of DCIT Vs. Tata Toyo Radiator Pvt. Ltd., the copy of which is annexed at Page No.541 onward in the Paper book. Therein also in the assessee's appeal in ITA No.1034/PN/2013, the ground No.1 was as follows:

*"The learned CIT(A) erred in confirming the disallowance of administrative service charges paid to Tata Autocomp Systems Ltd. ("TACO") to the extent of Rs.2,79,24,130 out of Rs.3,72,32,173 under section 40(A)(2)(b) of the Income-tax Act, 1961 ("the Act") on the grounds that the same is excessive and unreasonable having regard to services rendered by TACO and the legitimate business needs of the appellant.*

The Pune Bench of the Tribunal on the issue had held and observed as follows:

*"16. Admittedly, the issue arising before us is identical to the issue before the Tribunal in Tata Johnson Controls Automotive Ltd. Vs. DCIT (*supra*) and following the same parity of reasoning, we hold that the said expenditure is to be allowed in entirety in the hands of assessee being paid in accordance with the terms of the Agreement agreed upon between the parties and for the purpose of carrying on the business of assessee more efficiently. It may be pointed out herein that the assessee had initially entered into an Agreement with TACO in 1997 and the said expenditure had been allowed in the hands of assessee from year to year. However, the assessee renewed the Agreement in 2006 and the expenditure for the first time was not allowed in the hands of assessee in assessment year 2006-07. We find no merit in the orders of authorities below in this regard and accordingly, we modify the order of CIT(A) and direct the Assessing Officer to allow the expenditure in entirety in the hands of assessee. It may be pointed out herein only that the issue vide grounds of appeal No.1 and 2 raised by the assessee in assessment year 2006-07 and grounds of appeal No.1 and 2 raised by the Revenue are similarly raised by both the parties in assessment years 2007-08 to 2009-10. Accordingly, we allow the claim of assessee vis-à-vis the said expenditure in all the years i.e. assessment years 2006-07 to 2009-10. The grounds of appeal No.1 and 2 raised by the assessee in all the appeals are thus, allowed and the grounds of appeal No.1 and 2 raised by the Revenue in all the appeals is thus, dismissed."*

13.2 The Ld. Sr. Counsel for the assessee further submitted that all through out on this issue, a constant view has been taken by the Pune Bench of the Tribunal in favour of the assessee. That even, the Hon'ble Bombay High Court in the case of Pr. Commissioner of Income Tax Vs. M/s. Tata Toyo Radiator Pvt. Ltd. In ITA No.342 of 2017 and Ors have approved these payments and have given ruling in favour of the assessee.

*14. The Ld. DR fairly conceded that the issue is covered in favour of the assessee by the decisions mentioned aforesaid.*

*15. We have perused the case records and heard the rival contentions. We have also given considerable thought to the judicial pronouncements placed before us. That on careful perusal of these judicial pronouncements, it is crystal clear that the issue is covered in favour of the assessee and legal sanctity comes from the approval sanctioned by the Hon"ble Jurisdictional High Court. Thus, grounds of the Revenue's appeal are dismissed."*

6. The ld. DR did not bring on record any order contrary to the finding of ITAT and in the light of the order of this Tribunal latest being A.Ys. 2012-13 to 2014-15 we hold that the assessee is entitled to claim administrative service charges as deduction. Thus, ground Nos. 1 and 2 raised by the Revenue are dismissed.

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

**ITA No. 571/PUN/2019 for A.Y. 2016-17 by Revenue**

8. The ld. AR submits that the issue raised in A.Y. 2016-17 is similar to the issue raised in A.Y. 2015-16. The ld. DR did not dispute the same. Therefore, our decision taken in Revenue's appeal for A.Y. 2015-16 is equally applicable to the appeal for A.Y. 2016-17 also. Thus, the grounds raised by the Revenue fails and are dismissed.

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

**CO No. 2/PUN/2022, A.Y. 2016-17 (filed by the assessee)**

10. The ld. AR submits that the issue raised in cross objection is covered against the assessee in view of recent amendments with retrospective

effect. Therefore, the issue raised by the assessee is dismissed as withdrawn.

11. In the result, both the appeals by the Revenue as well as cross objection of the assessee are dismissed.

Order pronounced in the open court on 06<sup>th</sup> June, 2022.

Sd/-  
(R.S. Syal)  
VICE PRESIDENT

Sd/-  
(S.S. Viswanethra Ravi)  
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 06<sup>th</sup> June, 2022.  
रवि

**आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-5, Pune
4. The Pr. CIT-4, Pune
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "बी" बेंच,  
पुणे / DR, ITAT, "B" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

वरिष्ठ निजी सचिव / Sr. Private Secretary  
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune