

**IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH : BANGALORE**

**BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER
AND
SMT. BEENA PILLAI, JUDICIAL MEMBER**

IT(TP)A Nos. 217 & 218/Bang/2020
Assessment Years: 2013-14 & 2014-15

The Deputy Commissioner of Income Tax, Circle – 2(1)(1), Bangalore.	Vs.	M/s. Cerner Healthcare Solutions Pvt. Ltd., Ground Floor, Wing B, Block H2, Mountain Ash, Manyata Embassy Business Park, Nagawara, Bengaluru – 560 045. PAN: AACCC3795R
APPELLANT		RESPONDENT

Assessee by	:	Shri Sumit Khurana, CA
Revenue by	:	Shri Sumer Singh Meena, CIT DR

Date of Hearing	:	14-07-2022
Date of Pronouncement	:	14-07-2022

ORDER

PER BEENA PILLAI, JUDICIAL MEMBER

Present appeals are filed by revenue against two separate orders both dated 28/11/2019 passed by Ld.CIT(A)-2, Bangalore for A.Ys. 2013-14 & 2014-15.

Assessment Year 2013-14:

“1. Whether the CIT(A) was correct in holding that payments made by the assessee to M/s Cerner USA for the employers executing certain works for the assessee company would not amount to income in the hands of M/s Cerner India and no TDS was liable to be made by treating

this as re-imburements and holding Sec 40(a)(i) of the Act as not applicable.”

The issues alleged by revenue in A.Y. 2014-15 are also similar on identical facts and therefore the same is not reproduced herewith.

2. Brief facts of the case are as under:

2.1 We refer to A.Y. 2013-14 for sake of convenience.

The assessee filed its return of income on 29/11/2013 for A.Y. 2013-14. On 02/09/2014, the case was selected for scrutiny. The Ld.AO observed that, there was international transaction of assessee with the AE, and accordingly, reference was made to the transfer pricing officer. An order u/s. 92CA of the Act was passed by the Ld.TPO on 01/09/2016, wherein, no adjustment was made in respect of the international transactions.

On receipt of the transfer pricing order, the Ld.AO while passing draft assessment order made disallowance u/s. 40(a)(i) of the Act in respect of the expenses claimed as reimbursement of cost amounting to Rs.5,62,89,400/-.

Aggrieved by the addition made, the assessee filed appeal before the Ld.CIT(A).

The Ld.CIT(A) while considering the issue observed and held as under:

4. Ground 5 - The learned AO has erred in fact and law by holding that Appellant had no obligation to reimburse to Cerner Corporation ("Cerner Corp"), expenses (in the nature of employee stock option, travelling expenses, communication expenses and legal and professional expenses) that had been incurred by Cerner Corp on behalf of the Appellant and cannot be treated as pure reimbursement resulting in withholding tax under section 195 of the Act.

- 4.1 During the AY 2013-14, Cerner Healthcare reimbursed to Cerner Corp the following expenses:

S.No	Nature of Expenses	Amount (INR)
1	Employee stock option	12,438,576
2	Travelling expenses	48,56,533
3	Communication expenses	16,473,800
4	Professional fees	633,375
	Total	34,402,284

Cerner Corp made payments of the above mentioned expenses to the respective parties on behalf of Cerner Healthcare purely for administrative convenience and cross charged the same

to Cerner Healthcare, without any mark-up. Since these expenses were in the nature of pure reimbursement no tax was deducted by Cerner Healthcare.

The learned AO erroneously held that Cerner Healthcare had no obligation to reimburse Cerner Corp, expenses (in the nature of employee stock option, travelling expenses, communication expenses and legal and professional charges) that had been incurred by Cerner Corp on behalf of Cerner Healthcare without providing any detailed reasoning.

In view of the above, the learned AO concluded that the above remittance by the Appellant to Cerner Corp was not in the nature of reimbursement and would be a sum chargeable to tax in India under Section 195 of the Act.

4.2 The Appellant submits that there were no services being rendered by Cerner Corp to Cerner Healthcare and what is remitted is a mere reimbursement of certain business expenses of Cerner Healthcare which were paid by Cerner Corp on behalf of Cerner Healthcare. Accordingly, as the expenses incurred by Cerner Corp pertained to the expenses of Cerner Healthcare, the Appellant was under the obligation to reimburse the same to Cerner Corp.

4.3 In support of contention, that the reimbursement is not chargeable to tax, the Appellate submits as under:

- The term 'reimbursement' has been defined in the Advanced Law Lexicon to mean 'repayment of what has been spent' or 'to repay what is expended.' The word 'reimbursement' means and implies restoration of an equivalent for something paid or expended. It represents only recoupment and does not include an element of profit. Hence, there cannot be any 'income' element in pure reimbursements.
- Accordingly, only payments which are made towards meeting the actual expenses incurred on behalf of the payer would qualify as reimbursements. In case the amount reimbursed exceeds the amount of actual expenses incurred, or in other words where there is no nexus in the payments made and the actual costs incurred, the same would not qualify as reimbursement and would partake the nature of income as held by Uttarakhand High Court in the case of Sedco Forex International Inc (214 CTR 192). This view has been followed by the Bangalore Tribunal in the case of IDS Software Solutions (India) Pvt Ltd (122 TTJ 410).
- There are several judicial precedents which have upheld the principle that pure reimbursements do not constitute income:
 - i) CIT Vs Tejaji Farasram Kharawalla Ltd. (67 ITR 95) (SC)
 - ii) CIT Vs Industrial Engineering Projects Pvt. Ltd. (202 ITR 1014) HC (Delhi)
 - iii) HNS India VSAT Inc. Vs DDIT [2005] 95 ITD 157 ITAT (Delhi)
 - iv) Sedco Forex International Drilling Inc. Vs Deputy Commissioner of Income Tax (72 ITD 415) ITAT (Delhi)
 - v) Compagnie Francaise D'Etudes Et De Construction v Inspecting Assistant Commissioner [8 ITD 215] ITAT (Delhi)
 - vi) ACIT v Modicon Network (P) Ltd [14 SOT 204] ITAT (Delhi)
 - vii) DIT (International Taxation) v. Krupp Udhe GmbH ITA No 2626 of 2009 HC (Bombay)



- viii) DECTA Vs CIT [237 ITR 190 (AAR)]
- ix) CIT Vs Siemens Aktiengesellschaft [177 Taxman 81] HC (Bombay)
- x) CIT Vs Tata Engineering and Locomotive Co. Ltd [245 ITR 823] HC (Bombay)
- xi) CIT Vs Mannesmann Demag Lauchhammer [26 ITD 198 Hyderabad ITAT]
- xii) ITO Vs Bangalore International Airport Ltd [2008-115-TTJ-0477 Bangalore ITAT]
- xiii) Clifford Chance Vs DCIT [82 ITD 106] ITAT (Mumbai)

- 4.4 The determinant factor of reimbursement is whether there exists an obligation on the part of the person bearing the expenditure to incur such expenditure. Where the ultimate obligation / liability to bear an expense rest on another person and the payment for the same is made on his behalf, any recoupment of such expense would partake the nature of reimbursement.
- 4.5 In view of the above, the Appellant humbly submits that, the recoupment of expenses by Cerner Corp from Cerner Healthcare would qualify as reimbursement and would not be in the nature of 'income'.
- 4.6 Further, with respect to the disallowance of employee stock option expenses amounting to Rs 12,438,576, the Appellant wishes to submit that the same has been considered as taxable perquisite in the hands of the employees, and appropriate taxes has been withheld under Section 192 of the Act and deposited to the Government. Further, the Appellant wishes to place reliance on the recent Ahmedabad tribunal decision in the case of Burt Hill Design (P.) Ltd. v Deputy Director of Income-tax (International Taxation) (79 taxmann.com 459, Ahmedabad Tribunal) where it was held that:

As per Section 195(1) of the Act, Any person responsible for paying to a non-resident, not being a company, or to a foreign company, any interest (not being interest on securities) or any other sum chargeable under the provisions of this Act (not being income chargeable under the head "Salaries") shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rates in force.

Accordingly, as long as payment to non-resident entity is in the nature of payment consisting of income chargeable under the head "Income from Salaries", the assessee does not have any tax withholding obligations under section 195.

It is not the fact of tax deduction under section 192, but the nature of income embedded in related payments which is relevant for deciding whether or not section 195 will come into play. Since the income embedded in the impugned payments being in the nature of income chargeable to tax under the head 'income from salaries', the assessee cannot be said to have any tax withholding obligations under section 195.

Be that as it may, in any event, when undisputedly the payments are in the nature of the reimbursements, and, particularly when even the income embedded in these payments has already been brought to tax in India in the hands of ultimate beneficiaries- i.e. the seconded employees, there cannot be any tax withholding obligations under section 195.

- 4.7 Further, we wish to submit that, Cerner Healthcare had reimbursed expenses of similar nature to Cerner Corp for the AY 2006-07, AY 2007-08 & AY 2008-09. In this regard, the Income Tax Appellate Tribunal ("ITAT") for the AY 2006-07 to AY 2008-09 have upheld the contention of Cerner Healthcare and held that reimbursement of expenses cannot be liable to tax (copy of the ITAT orders enclosed as Annexure 1).
5. Ground 6 - The learned AO has erred in law and in fact by treating the expenses amounting to Rs 34,402,284 reimbursed by the Appellant as being in the nature of Fees for Technical Services under the Act and the India USA Double Taxation Avoidance Agreement without analysing the taxability of each expense individually and disallowing the same under Section 40(a)(i) of the Act.
- 5.1 We wish to submit that Cerner Corp is not rendering any services to Cerner Healthcare. On the contrary, Cerner Healthcare is engaged in the business of providing software development and testing services to Cerner Innovation Inc. Accordingly, there is no basis for treating recovery of expenses by Cerner Corp as Fees for Technical Services ("FTS") under the Act.
- 5.2 Further, Section 9(1)(vii) of the Act defines FTS as "any consideration (including any lump sum consideration) for the rendering of any managerial, technical or consultancy services (including the provision of services of technical or other personnel) but does not include consideration for any construction, assembly, mining or like project undertaken by the recipient or consideration which would be income of the recipient chargeable under the head "Salaries".
- 5.3 Article 12(4) of the India-US DTAA defines Fees for Included Services ("FIS") to mean:
"payments of any kind to any person in consideration for the rendering of any technical or consultancy services (including through the provision of services of technical or other personnel) if such services:
(a) are ancillary and subsidiary to the application or enjoyment of the right, property or information for which a payment described in paragraph 3 is received; or
(b) make available technical knowledge, experience, skill, know-how, or processes or consists of the development and transfer of a technical plan or technical design".
- 5.4 While the definition of FTS under the Act is very wide encompassing all services in the nature of managerial, technical or consultancy services, the India-US DTAA considers only those 'technical' or 'consultancy' services as FIS that make available 'technical knowledge, experience, skill, know-how or processes or which consists of the development and transfer of a technical plan or technical design'.
- 5.5 To interpret the term 'make available' reliance may be placed on the India-US technical Memorandum of Understanding ('MoU') concerning fees for included services in Article 12. As per the MOU, generally speaking technology will be considered made available when the person acquiring the service is enabled to apply the technology the fact that the provision of the service may require technical input by the person providing the service does not per se mean that technical knowledge, skills etc are made available to the person purchasing the service.

- Technical services have been further interpreted in the MOU to mean services requiring expertise in a technology.
- 5.6 The New Shorter Oxford English Dictionary, Fourth Edition, 1993 defines 'technology' as 'the branch of knowledge that deals with the mechanical arts or applied sciences'. Further, the Webster's Revised Unabridged Dictionary, 1998 defines 'technology' as the science of systematic knowledge of the industrial arts, especially of the more important manufactures, as spinning, weaving, metallurgy, etc and notes that technology consist of the applications of the principles established in the various physical sciences (chemistry, mechanics, mineralogy, etc) to manufacturing processes. Further, 'applied science' is merely the discipline dealing with applying scientific knowledge to practical problems
- 5.7 In this regard, the Company wishes to rely on the decision of the Authority for Advance Ruling ("AAR") in the case of Anapharm Inc (AAR No. 746 of 2007) where the AAR held that the services must make available technical knowledge, etc for services to be regarded as FTS –
- "It is, thus fairly clear that mere provision of technical services is not enough to attract Article 12(4)(b). It additionally requires that the service provider should also make his technical knowledge, experience, skill, know-how etc., known to the recipient of the service so as to equip him to independently perform the technical function himself in future, without the help of the service provider. In other words, payment of consideration would be regarded as 'fee for technical / included services' only if the twin test of rendering services and making technical knowledge available at the same time is satisfied".
- 5.8 The Company also wishes to place reliance on the decision of the Mumbai ITAT in the case of Raymond Limited vs DCIT (86 ITD 791). The ITAT, while interpreting the term "make available", held that:
- "thus, the normal, plain and grammatical meaning of the language employed, in our understanding, is that a mere rendering of services is not roped in unless the person utilising the services is able to make use of the technical knowledge etc, by himself in his business or for his own benefit and without recourse to the performer of the services in future. The technical knowledge, experience, skill etc. must remain with the person utilising the services even after the rendering of the services has come to an end.
- 5.9 A transmission of the technical knowledge, experience, skills etc. from the person rendering the services to the person utilising the same is contemplated by the article. Some sort of durability or permanency of the result of the "rendering of services" is envisaged which will remain at the disposal of the person utilising the services. The fruits of the services should remain available to the person utilising the services in some concrete shape such as technical knowledge, experience, skills etc".
- 5.10 Further, in National Organic Chemical Industries Ltd. v. DCIT (96 TTJ 765), the Mumbai ITAT held that mere rendering of services cannot be considered as 'included services' unless the person utilizing the services is able to make use of this technical knowledge by himself in his business and/or for his own benefit and without recourse to the performer of the services.

- 5.11 In the case of Wipro Ltd [(2003) 80 TTJ 191 (Bang)], in the context of taxability of up linking and down linking services rendered by the Service Providers under the India - USA tax treaty, the Bangalore ITAT held that Article 12(4) of the India - USA tax treaty is triggered only in the event any technical services or processes are 'made available' by the Service Provider to the recipient. The ITAT observed that since there was no technical process or service being made available to Wipro by the Service Providers, Article 12(4) of India-USA tax-treaty would not apply.
- 5.12 Reliance has also been placed on the ruling of the AAR in the case of Intertek Testing Services India (P) Ltd. (220 CTR 540) where it was held that "...to fit into the terminology "make available", the technical knowledge, skills etc. must remain with the person receiving the services even after the particular contract comes to an end. The services offered may be the product of intense technological effort and lot of technical knowledge and experience of the service provider would have gone into it. But, that is not enough to fall within the description of services which make available the technical knowledge, etc. The technical knowledge or skills of the provider should be imparted to and absorbed by the receiver so that the receiver can deploy similar technology or techniques in future without depending on the provider.
- 5.13 Similar principles were also enunciated in the case of
- Bharat Petroleum Corpn Ltd vs JDIT (14 SOT 307)
 - Federation of Indian Chambers of Commerce and Industry (AAR No. 811 of 2009)
 - Meakins and Phyllips vs ACIT (287 ITR 227)
 - NQA Quality Systems Register Ltd vs DCIT (92 TTJ 946)
 - Ernst & Young Private Limited (A.A.R. No.820 of 2009)
- 5.14 Cerner Corp has made payments of the above mentioned expenses to the respective third parties on behalf of Cerner Healthcare purely for administrative convenience and cross charged the same to Cerner Healthcare, without any mark-up. Further, such services did not make available any technical, knowledge, skill, experience, know-how or processes nor did it consist of the development and transfer of a technical plan or a technical design.
- 5.15 Applying the principles laid down in the MOU to the India-US DTAA and the above judicial precedence, the Appellant submits the following:
- The payments made by Cerner Healthcare to Cerner Corp would be in the nature of reimbursement of expenses and would not be in the nature of 'income' chargeable to tax.
 - Even, where the payments are construed to be in the nature of income, the same would not be liable to tax in light of the provisions of the India – US DTAA since (a) the payment is not for the provision of "technical" or "consultancy" service and (b) no technical knowledge, experience, skill, know-how, or processes is made available to Cerner Healthcare by Cerner Corp.
- 5.16 In view of the above, the reimbursements made by Cerner Healthcare to Cerner Corp incurred by Cerner Corp on behalf of Cerner Healthcare would not qualify as FTS.

2.2 Aggrieved by the order of Ld.CIT(A), revenue has filed the present appeal before this *Tribunal*.

3. At the outset, the Ld.AR submitted that this issue stands squarely covered by following decisions.

- *Decision of Hon'ble Karnataka High Court in case of DIT(IT) vs. Abbey Business Services India (P.) Ltd. reported in [2020] 122 taxmann.com 174*

- *Decision of Hon'ble Karnataka High Court in case of M/s. Flipkart Internet Pvt. Ltd. vs. DCIT (IT) in W.P. No. 3619/2021(T-IT) by order dated 24.06.2022*
- *Decision of Hon'ble Pune Tribunal in case of M/s. Faurecia Automotive Holding vs. DCIT (IT) in ITA No. 784/PUN/2015 by order dated 08.07.2019*
- *Coordinate Bench of this Tribunal in case of M/s. Toyota Boshoku Automotive India Pvt. Ltd. vs. DCIT in IT(TP)A No. 1646/Bang/2017 by order dated 13.04.2022 and*
- *Coordinate Bench of this Tribunal in the case of Goldman Sachs Services Pvt. Ltd. vs. DCIT in IT(IT)A Nos. 362 to 369 & 338 to 345/Bang/2020 by order dated 29.04.2022.*
- *Decision of Coordinate Bench of this Tribunal in case of M/s. Scania CV AB vs. DCIT in IT(IT)A No. 3432/Bang/2018 by order dated 06/07/2022*

4. The Coordinate Bench of this Tribunal in the recent decision in case of *M/s. Scania CV AB vs. DCIT (supra)*, observed as under:

“2.3 It is submitted that identical issue has been considered at length and in detail in the above decisions. The Ld.AR referred to the recent decision of Hon'ble Karnataka High Court in case of M/s. Flipkart Internet Pvt. Ltd. vs. DCIT (IT) (supra) wherein Hon'ble Court observed as under:

“(viii) The Revenue has relied upon the judgment of the Apex Court in C.C., C.E. & S.T.-Bangalore (Adjudication) etc. v. M/s.Northern Operating Systems Pvt. Ltd.¹² where the Apex Court has interpreted the concept of a secondment agreement taking note of the contemporary business practice and has indicated that the traditional control test to indicate who the employer is may not be the sole test to be applied. The Apex Court while construing a contract whereby employees were seconded to the assessee by foreign group of Companies, had upheld the demand for service tax holding that in a secondment arrangement, a secondee would continue to be employed by the original employer.

(ix) The Apex Court in the particular facts of the case had held that the Overseas Co., had a pool of highly skilled employees and having regard to their expertise were seconded to the assessee and upon cessation of the term of secondment would return to their overseas employees, while returning Civil Appeal Nos.2289-2293/2021 such finding on facts, the assessee was

held liable to pay service tax for the period as mentioned in the show cause notice.

(x) It needs to be noted that the judgment rendered was in the context of service tax and the only question for determination was as to whether supply of man power was covered under the taxable service and was to be treated as a service provided by a Foreign Company to an Indian Company. But in the present case, the legal requirement requires a finding to be recorded to treat a service as 'FIS' which is "make available" to the Indian Company.

(xi) Accordingly, any conclusion on an interpretation of secondment as contained in the M.S.A. to determine who the employer is and determining the nature of payment by itself would have no conclusive bearing on whether the payment made is for 'FIS' in light of the further requirement of "make available."

3. On the contrary, the Ld.DR placed reliance on orders passed by authorities below.

4. We have perused the submissions advanced by both sides in the light of records placed before us.

4.1 We note that the evidences filed by assessee has not been considered by the revenue authorities.

4.2 We therefore remand this issue to the Ld.AO to consider the claim in accordance with the decision of Hon'ble Karnataka High Court in case of M/s. Flipkart Internet Pvt. Ltd. vs. DCIT (IT) (supra) and Coordinate Bench of this Tribunal in the above referred cases M/s. Toyota Boshoku Automotive India Pvt. Ltd. vs. DCIT (supra) Goldman Sachs Services Pvt. Ltd. vs. DCIT(supra) having regard to the evidences filed by the assessee. Needless to say that proper opportunity of being heard must be granted to assessee in accordance with law.

Accordingly this ground raised by assessee stands allowed for statistical purposes."

5. Respectfully following the above, we remand this issue to the Ld.AO to consider the claim in accordance with the decision of Hon'ble Karnataka High Court in case of M/s. Flipkart Internet

Pvt. Ltd. vs. DCIT (IT) (supra) and Coordinate Bench of this Tribunal in the above referred cases *M/s. Toyota Boshoku Automotive India Pvt. Ltd. vs. DCIT (supra)* *Goldman Sachs Services Pvt. Ltd. vs. DCIT(supra)* having regard to the evidences filed by the assessee.

6. Needless to say that proper opportunity of being heard must be granted to assessee in accordance with law.

Accordingly this ground raised by revenue stands allowed for statistical purposes.

Accordingly the appeal filed by the revenue for A.Y. 2013-14 stands partly allowed for statistical purposes.

Assessment Year 2014-15

7. On perusal of the records, we note that the disallowance made by the Ld.AO in the assessment order is in respect of section 10AA amounting to Rs. 15,54,416/- and disallowance of reimbursement of expenses u/s. 40(a)(i) r.w.s 195 amounting to Rs.6,64,36,243/-. The Ld.CIT(A) while considering the issue of cost reimbursed by the assessee, deleted the disallowance by observing as under:

“6.2 Ground nos. 5 to 8 are on the disallowance made u/s 40 (a)(i) of the Act. of expenses claimed as reimbursement expenses. The Assessing Officer observed that the appellant company has shown to have incurred the reimbursement expense under various heads to M/s Cerner Corporation USA of the amount tuning to Rs.6,64,36,243/- though no services were rendered by the Cerner Corporation (the holding company) to M/s Cerner Health Solutions (the assessee company)and the payments being made to the holding company are for meeting the business expenses of the assessee company, and it was under obligation to reimburse the same to the holding company and that such payments are treated as reimbursement of expenses, therefore were not income in the hands of non-resident. The assessing officer had treated as "fee for technical services" and as no withholding of taxes were effected on such payments disallowed u/s 40(a)(i) of the Act. Further stated that for

the AY 2006-07 the decision of ITAT in ITA.No.627/Bang/2011 is assessee's own case has not been accepted by the department and appeal u/s 260A is filed before the Hon'ble High Court of Karnataka. During the course of appeal proceedings the appellant submitted that there were no services being rendered by Cerner Corp to Cerner Healthcare and what is remitted is a mere reimbursement of certain business expenses of Cerner Healthcare which were paid by Cerner Corp on behalf of Cerner Healthcare. Accordingly, as the expenses incurred by Cerner Corp pertained to the expenses of Cerner Healthcare, the Appellant was under the obligation to reimburse the same to Cerner Corp. and therefore submitted that, the recoupment of expenses by Cerner Corp from Cerner Healthcare would qualify as reimbursement and would not be in the nature of 'income'. Further submitted that Cerner Healthcare had reimbursed expenses of similar nature to Cerner Corp for the AY 2006-07, AY 2007-08 & AY 2008-09 on which the Income Tax Appellate Tribunal for the AY 2006-07 to AY 2008-09 have upheld the contention of Cerner Healthcare and held that reimbursement of expenses cannot be liable to tax. The relevant para of Hon'ble ITAT order for AY 2006-07 is reproduced as under:

16. We have heard rival submissions and perused the material on record. The CIT(A) at para 16.1 of his impugned order held that payments made by assessee to Cerner, USA are reimbursement of expenses and cannot be "fees for technical services " (FTS). However he held that the reimbursement is taxable under the provision of the Act. The relevant finding of the CITA() at para 16.1 reads as follows:

"In short even if technical services has been provided by the Cerner USA through its employees, no fees for such work is charged on the appellant and therefore this ground is allowed. Nevertheless since the reimbursement is held to be taxable under the provisions of IT Act and since admittedly no tax has been deducted by the payer appellant from the same, the same deserves to be disallowed u/s 40(a)(i) of IT Act."

Both parties had agreed that the reimbursement payment cannot be liable to tax and the issue is covered by the order of the Tribunal in the case of IDS Software Solutions (India) Pvt. Ltd. (122 TTJ 410). Since the facts being identical, respectfully following the decision of the coordinate Bench of the Tribunal, we hold that the AO is not justified in making disallowance of Rs.2, 74,59,496/- u/s 40(a)(i) of the Act. Hence, ground nos. 9 to 13 are allowed.

Respectfully following the aforesaid Hon'ble ITAT order for AY 2006-07 I hereby allow the grounds raised by the appellant on the disallowance of reimbursement expenses u/s.40(a)(i) of the Act."

9. As this issue is remanded hereinabove while considering assessment year 2013-14, applying the same view *mutatis mutandis*, the present appeal for A.Y. 2014-15 also stands remanded to the Ld.AO, with the direction to verify the claim in accordance with the principles laid down in various decisions passed by *Hon'ble High Court* as well as *Hon'ble Pune Tribunal* and *Coordinate Bench of this Tribunal* referred to hereinabove.

Accordingly, the appeals filed by the revenue for A.Ys. 2013-14 & 2014-15 stands partly allowed for statistical purposes.

In the result, both the appeals filed by revenue stands partly allowed for statistical purposes.

Order pronounced in the open court on 14th July, 2022.

Sd/-
(CHANDRA POOJARI)
Accountant Member

Sd/-
(BEENA PILLAI)
Judicial Member

Bangalore,
Dated, the 14th July, 2022.
/MS /

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|---------------|------------------------|
| 1. Appellant | 4. CIT(A) |
| 2. Respondent | 5. DR, ITAT, Bangalore |
| 3. CIT | 6. Guard file |

By order

Assistant Registrar,
ITAT, Bangalore