

आयकर अपीलीय अधिकरण, 'ए'न्यायपीठ,चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
'A' BENCH, CHENNAI**

श्रीमहावीर सिंह, उपाध्यक्ष एवंश्री मनोज कुमार अग्रवाल, लेखा सदस्यके समक्ष  
**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND  
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER**

आयकर अपील सं./I.T.A No.:2338/CHNY/2019

निर्धारण वर्ष/ Assessment Year 2013 - 2014

The Deputy Commissioner of

Income Tax, **Vs.**

M/s. Trends in Vogue Private

Limited,

Central Circle – 2 (1),

Investigation Wing,

Chennai – 600 034.

(Now merged with Cavinkare

Private Limited),

No.12, Cenatoph Road,

Chennai – 600 018.

**PAN : AABCK 2815K**

(अपीलार्थी/**Appellant**)

(प्रत्यर्थी/**Respondent**)

Department by

: Mr. ARV Sreenivasan, Addl. CIT

Assessee by

: Mr. T. Banusekar, Chartered Accountant

सुनवाई की तारीख/Date of Hearing

: 01.08.2022

घोषणा की तारीख/Date of Pronouncement

: 01.08.2022

**आदेश /ORDER**

**PER MAHAVIR SINGH, VP:**

This appeal by the Revenue is arising out of the order of the Commissioner of Income Tax (Appeals)-18 Chennai in I.T.A. No.611/17-18; order dated 06.05.2019. The Assessment was framed by the Assistant Commissioner of Income Tax, Central Circle – 2(1), Chennai for the Assessment Year 2013 – 2014 u/s.143(3) r.w.s.153A of the Income Tax Act, 1961 (hereinafter "the Act") vide order dated 30.12.2016.

2. The only issue in this appeal of the Revenue is that the reconciliation filed by the Assessee in regard to the franchise receipts that were not confronted by the Assessing Officer and accordingly there is a violation of Rule 46A of the Income Tax Rules, 1962. For this, the Revenue has raised the following Ground Nos.2 & 3, reproduced as under.

*"2. The learned CIT(A) failed to note the fact that the reconciliation wherein it has been substantiated the reasons for the difference in franchisee receipts was not produced at the time of assessment proceedings before the Assessing Officer.*

*3. The learned CIT(A) failed to consider the study made during the assessment proceedings, of another company involved in the similar nature of business namely M/s. Groom India Private Limited (in the brand name of "Naturals") which shows that they recognize the franchisee fee as income in the year of receipt. This franchise fee is received by the company at the time of entering the agreement with franchisees which is similar to the case of M/s. Trends in Vogue Private Limited."*

3. The brief facts of the case are that the Assessee Company is a domestic company engaged in the business of providing styling and beauty solutions through its chain of saloons. A search was conducted u/s.132 of the Act at the

business premises of the Assessee on 18.11.2015 and consequent to the search, notice u/s.153A of the Act was issued and the assessment was framed u/s.143(3) r.w.s.153A of the Act vide order dated 30.12.2016. During the course of the assessment proceedings, the Assessing Officer noted and concluded that the Assessee ought to have treated the franchisee fee received as income in the year of receipt. According to him, the Assessee has postponed the recognition of revenue in the guise of accounting standards as per AS-9, which has been admitted by the Assessee and is being worked out, as under:

<b>Particulars of Revenue</b>	<b>F.Y : 2012-13</b>
Franchisee start up fee received during the year	5,52,37,180
Total Franchisee start up fee recognized as Revenue	2,94,85,454
Less: Franchisee start up fee refunded	11,00,000
<b>Difference</b>	<b>2,57,40,726</b>

Aggrieved, the Assessee is in appeal before the Commissioner of Income Tax (Appeals).

4. The Commissioner of Income Tax (Appeals) after taking the reconciliation split the sum of Rs.2,57,40,726/- into two parts. The first part, a sum of Rs.1,10,01,729/- was refunded in

the relevant Assessment Year itself and the Assessing Officer has not allowed any deduction for this refund of Rs.1,10,01,730/-. Secondly, the difference of franchisee fee received during the year was a sum of Rs.1,47,50,000/- which is treated as an advance and deferred the recognition of revenue to the subsequent Assessment Years. But the Assessing Officer had treated the income of Rs.1,47,50,000/- as income of the relevant Assessment Year, holding that the amounts were actually received during the previous year relevant to the Assessment Year under consideration.

5. The Assessee before the Commissioner of Income Tax (Appeals) had filed a reconciliation statement as is observed in paragraph No.10.11.5, reproduced as under:

*"10.11.5 The Appellant has offered reconciliation with reference to the total franchisee fee received, the income impregnated in such fee for different years on the basis of recognition of revenue in the year in which the franchisee has commenced business on a consistent regular basis which fact has not been repudiated by the Assessing Officer.*



6. Now, the Revenue has disputed only this item of Rs.1,47,50,000/-. The learned Senior Departmental Representative argued that he has no issue with the order of the Commissioner of Income Tax (Appeals) but the reconciliation has not been confronted with the Assessing Officer for verification purpose and as to whether the Assessee has disclosed this income of Rs.1,47,50,000/- in the subsequent Assessment Years, i.e, A.Ys 2014 – 2015 and 2015 – 2016.

7. On this, the learned Counsel for the Assessee fairly agreed that the matter can be set aside to the file of the Assessing Officer with a limited purpose of verification of the fact as to whether this income was offered in the subsequent years for the Assessment Years 2014 – 2015 and 2015 – 2016 and is the same income which has been received by the Assessee in the relevant Assessment Years 2013 – 2014.

8. We noted that the plea of the learned Senior Departmental Representative is reasonable because the Commissioner of Income Tax (Appeals) has taken the reconciliation at the back of the Assessing Officer. Hence, we remand this issue back to the file of the Assessing Officer for limited purpose of verification.

9. In the result, the appeal of the Revenue in I.T.A No.:2338/CHNY/2019 is allowed for statistical purposes.

Order pronounced in the court on 1<sup>st</sup> August, 2022 at Chennai.

**Sd/-**

(मनोज कुमार अग्रवाल)

**(MANOJ KUMAR AGGARWAL)**

लेखा सदस्य/ACCOUNTANT MEMBER

**Sd/-**

(महावीर सिंह )

**(MAHAVIR SINGH)**

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 1<sup>st</sup> August, 2022

IA, Sr. PS

आदेशकीप्रतिलिपिअग्रेषित/Copy to: 1. अपीलार्थी/Appellant  
2. प्रत्यर्थी/Respondent  
3. आयकरआयुक्त (अपील)/CIT(A)  
4. आयकरआयुक्त/CIT  
5. विभागीयप्रतिनिधि/DR  
6. गार्डफाईल/GF