

आयकर अपीलिय अधिकरण  
मुंबई पीठ " ए "  
श्री विकास अवस्थी, न्यायिक सदस्य एवं  
श्री एस. रिफौर रहमान, लेखा सदस्य के समक्ष  
IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH " A", MUMBAI  
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER &  
SHRI S.RIFAUR RAHMAN , ACCOUNTANT MEMBER  
आअसं.3579/मुं/2018 (नि.व. 2014-15)  
ITA NO.3579/MUM/2018(A.Y.2014-15)

Dy. Commissioner of Income Tax 15(2)(1),  
Room No.357, 3<sup>rd</sup> Floor,  
Aaykar Bhavan, M.K.Road,  
Mumbai – 400 020.

..... अपीलार्थी /Appellant

बनाम Vs.

M/s. Lauren Bharat Engineering Private Limited,  
C-401, Delphi Building,  
Orchad Avenue, Hiranandani Business Park,  
Powai, Mumbai 400 076.

**PAN: AABCL-9571-H**

..... प्रतिवादी/Respondent

अपीलार्थी द्वारा/ Appellant by : Shri Mehul Jain

प्रतिवादी द्वारा/Respondent by : None

सुनवाई की तिथि/ Date of hearing : 18/05/2022

घोषणा की तिथि/ Date of pronouncement : 10/08/2022

**आदेश/ ORDER**

**PER VIKAS AWASTHY, JM:**

This appeal by the Revenue is directed against the order of Commissioner of Income Tax (Appeals)-24, Mumbai [in short 'the CIT(A)] dated 28/02/2018 for the Assessment Year 2014-15.

2. The Revenue in appeal has assailed the findings of CIT(A) in allowing relief in respect of the disallowances /additions made by the Assessing Officer

during the assessment. The gist of grounds raised in appeal by the Revenue is as under:-

- (i) Against deleting of addition on account of Employee Benefit Expenses
  - Rs. 2,15,86,477/-
- (ii) Restricting addition on account of Other Operating Expenses to Rs.13,98,767/-
- (iii) Restricting addition in respect of loss on account of onerous contract
  - Rs.19,11,191/-
- (iv) Deleting addition on account of Forex Loss.

3. The brief facts of the case as emanating from records are: The assessee is rendering Engineering Procurement and Construction Management (EPCM) to contractors executing turnkey projects for Solar Power facilities in India. During assessment proceedings the Assessing Officer made certain additions /disallowances. Aggrieved by the assessment order dated 27/12/2016, the assessee filed appeal before the CIT(A). The CIT(A) vide impugned order granted part relief to the assessee. Against the relief granted by First Appellate Authority, the Revenue is in appeal before the Tribunal.

4. We have heard the submissions made by Id.Departmental Representative and have examined orders of authorities below.

5. In ground No.1 of appeal, the Revenue has assailed the relief granted by CIT(A) in respect of Employees Benefit Expenses. The assessee has claimed total expenditure of Rs.4.31 crores towards employee benefit expenses. The Assessing Officer observed that the assessee has failed to furnish supporting evidences, therefore, adhoc disallowance of 50% is made. During the First Appellate proceedings, the assessee furnished various documents including TDS returns, bank statements, etc. to support its contention. The CIT(A) after examining the

documents on record concluded that the expenditure incurred towards employees cost is verifiable and is supported by necessary documentary evidences. In the light of evidence brought on record by the assessee, the CIT(A) deleted the addition in full. We do not find any infirmity in the findings of CIT(A) on this issue, therefore, ground No.1 of the Revenue's appeal is dismissed.

6. In ground No.2, the Revenue has assailed the relief granted by CIT(A) in respect of 'Other Operating Expenses'. The assessee had claimed 'Other Operating Expenses' to the tune of Rs.3.95 crores. In scrutiny assessment proceedings the Assessing Officer made adhoc disallowance of 50% of the said expenses. During the First Appellate proceedings, the assessee furnished various documents to substantiate its claim. The Assessing Officer after considering the submissions of the assessee and documents on record came to the conclusion that substantial part of 'Other Operating Expenses' comprises of rent Rs. 1,43,41,757/- and professional charges Rs.1,11,91,740/-. The assessee had submitted TDS returns and bank statement to support its claim. The CIT(A) accepted the submissions of the assessee and restricted adhoc disallowance to the extent of 10% of the balance expenses amounting to Rs.1.39 crores. We find the order of CIT(A) reasonable, hence, no interference is warranted. Consequently, ground No.2 of the appeal is dismissed.

7. In ground No.3 of appeal the Revenue has assailed the findings of CIT(A) in restricting addition in respect of onerous contract. The assessee had claimed Rs.1.71 crores on account of onerous contract. During assessment proceedings the assessee failed to furnish any document in support of its claim. Even during the First Appellate proceedings the assessee failed to furnish any cogent evidence. The CIT(A) granted part relief to the assessee after reducing the opening balance of Rs.1.52 crores from the expenses debited during the year. Hence, the CIT(A) restricted the disallowance to Rs.19,11,391/-. The Id.Departmental Representative failed to

controvert the findings of CIT(A) on this issue. We find no infirmity in the impugned order on this account, hence, ground No.3 of appeal is dismissed.

8. In ground No.4 of appeal, the Revenue has assailed the findings of CIT(A) in deleting Foreign Exchange loss. The assessee had claimed loss on foreign currency transactions amounting to Rs.2.33 cores. The Assessing Officer disallowed the same in the absence any supporting evidences. During the First Appellate proceedings the assessee furnished evidences to support its claim. The CIT(A) after examining the documents furnished by assessee allowed the claim in full. No contrary material was brought to the notice of Bench to dislodge the reasoned findings given by the CIT(A) for allowing foreign exchange loss. Hence, we see no reason to reverse the findings of CIT(A) on this account as well.

9. The grounds No.5 and 6 of the appeal are general in nature, hence, require no adjudication.

10. In the result, appeal by the Revenue is dismissed.

Order pronounced in the open court on Wednesday the 10<sup>th</sup> day of August, 2022.

Sd/-

( S.RIFAUR RAHMAN )

लेखा सदस्य/ACCOUNTANT MEMBER

मुंबई/ Mumbai, दिनांक/Dated 10/08/2022

Vm, Sr. PS(O/S)

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

**प्रतिलिपि अग्रेषितCopy of the Order forwarded to :**

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्त(अ)/ The CIT(A)-
4. आयकर आयुक्त CIT
5. विभागीय प्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT,  
Mumbai
6. गार्ड फाइल/Guard file.

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BY ORDER,

(Dy./Asstt. Registrar)  
**ITAT, Mumbai**