

आयकर अपीलीय अधिकरण 'डी' न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
'D' BENCH, CHENNAI

माननीय श्री वी. दुर्गा राव, न्यायिक सदस्य एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON'BLE SHRI V. DURGA RAO, JUDICIAL MEMBER AND
HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं./ ITA No.869/Chny/2020
(निर्धारण वर्ष / Assessment Year: 2017-18)

DCIT Corporate Circle-2(1) Chennai.	बनाम/ Vs.	M/s. Enexio Power Cooling Solutions India Pvt. Ltd. No.443, Guna Building, Anna Salai, Teynampet, Chennai – 600 018.
स्थायी लेखा सं./जीआइ आर सं./PAN/GIR No. AAACJ-7891-G		
(□ पीलार्थी/Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओरसे/ Assessee by	:	Shri Saroj Kumar Parida (Advocate)-Ld. AR
प्रत्यर्थी की ओरसे/Revenue by	:	Dr. S. Palanikumar (CIT) – Ld. DR

सुनवाई की तारीख/Date of Hearing	:	21-09-2022
घोषणा की तारीख /Date of Pronouncement	:	21-09-2022

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by Revenue for Assessment Year (AY) 2017-18 arises out of the order of learned Commissioner of Income Tax (Appeals)-6, Chennai [CIT(A)] dated 23-03-2020 in the matter of an assessment framed by Ld. Assessing Officer [AO] u/s. 143(3) of the Act on 19-11-2019. The grounds taken by the Revenue read as under:

1. The order of the CIT(A) is contrary to law, facts and circumstances of the case

2. Whether on the facts and in the circumstances of the case and in law, the Hon'ble Tribunal was right in directing the AO to quantify the retention money payment only on accrual basis and not on actual payment basis, whereas the disallowance was made on the expenditure relatable to withheld amount?

3. For these and other grounds that may be adduced at the time of hearing, it is prayed that the order of the learned CIT(A) may be set aside and that of the Assessing Officer restored.

As is evident, the sole subject matter of appeal is taxability of retention money.

2. The Registry has noted the delay of 47 days in the appeal, the condonation of which has been sought by Ld. CIT-DR. Considering the fact that the impugned order was passed during lockdown situation arising out of Covid-19 Pandemic, we condone the delay and admit the appeal for adjudication on merits.

3. The Ld. CIT-DR assailed the adjudication of Ld. CIT(A) and submitted that revenues were recognized in Books of Account as per mercantile system of accounting but the same has been adjusted in the computation of income. The Ld. AR submitted that the assessee is following consistent method of accounting to recognize revenue on retention money and the issue is covered by earlier orders of Tribunal which Ld. CIT(A) has followed. Having heard rival submissions, the appeal is disposed-off as under.

Assessment Proceedings

4. The assessee being resident corporate assessee is stated to be engaged in the business of designing, engineering, supply, erection and commissioning of cooling towers and air-cooled condensers. It was observed by Ld. AO that the assessee excluded retention amount of Rs.1173.90 Lacs from computation of income. However, the assessee did not exclude the expenditure. Accordingly, Ld. AO held that there was distortion of profits. The Ld. AO, allowing net profit rate

of 4.71% on these receipts, added the balance Rs.1118.61 Lacs to the income of the assessee.

Appellate Proceedings

5.1 The assessee explained that the assessee follows mercantile system of accounting. The assessee enters into contract with various customers for colling towers and cool condensers. In the contract, there is specific clause that a specified percentage of the contract price would be retained by the buyer and it would be paid only after a particular period subject to the satisfactory completion of the project. Accordingly, the retention amount of Rs.1173.90 Lacs has been deferred as per the contract in spite of job carried and bills submitted. The payment of retention money is contingent on satisfactory completion of work and its certification. The retention money is offered to tax in the year of receipt. This methodology has been accepted by Tribunal in assessee's own case for AY 2007-08 as well as for AY 2013-14. The expenditure in connection with the business has to be allowed since all contract works are one whole work, The entire amount of expenditure incurred by the assessee is allowable on the basis on incurrance of the liability.

5.2 Concurring with assessee's submissions, Ld. CIT(A) held that the assessee could claim expenses on accrual basis and the expenditure is to be allowed as and when it is incurred. Finally, Ld. AO was directed to quantify and pass order in terms of directions given by Tribunal in earlier years. Aggrieved, the revenue is in further appeal before us.

Our findings and Adjudication

6. It could be seen that the nature of assessee's work is such that a part of the contract amount is retained by the customers and the same

is released on satisfactory performance of the project. Therefore, the assessee, following consistent method of accounting, defer the same and recognizes these revenues on receipts basis. So far as the expenditure is concerned, the same is claimed on accrual basis.

7. As rightly noted by Ld. CIT(A), this methodology has been approved by coordinate bench of Tribunal in assessee's own case for earlier years. There is nothing on record to suggest that the aforesaid decisions have been reversed in any manner. No change in facts is before us in this year. Since Ld. CIT(A) has merely followed the adjudication of Tribunal, the same could not be faulted with. We order so.

8. The appeal stands dismissed.

Order pronounced on 21st September, 2022.

Sd/-
(V. DURGA RAO)
न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-
(MANOJ KUMAR AGGARWAL)
लेखक सदस्य / ACCOUNTANT MEMBER

चेन्नई / Chennai; दिनांक / Dated : 21-09-2022
EDN/-

आदेश की प्रतिलिपि ँ ग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/Appellant 2. प्रत्यर्थी/Respondent 3. आयकर आयुक्त (अपील)/CIT(A) 4. आयकर आयुक्त/CIT 5. विभागीय प्रतिनिधि/DR 6. गार्ड फाईल/GF