

**IN THE INCOME TAX APPELLATE TRIBUNAL,
DELHI BENCH: 'SMC' NEW DELHI**

SHRI SAKTIJIT DEY, JUDICIAL MEMBER

ITA No.3399/Del/2018
Assessment Year: 2014-15

Media Agility India Pvt. Ltd. SCO-43, Old Judicial Complex, Sector-15, Gurgaon (Hr.)	Vs.	ITO, Ward 2(5), Gurgaon
PAN :AAGCM9049L		
(Appellant)		(Respondent)

Appellant by	Shri Sidhant Arora, CA
Respondent by	Shri Om Parkash, Sr. DR

Date of hearing	25.08.2022
Date of pronouncement	17.11.2022

ORDER

This is an appeal by the assessee against order dated 27.02.2018 of learned Commissioner of Income-Tax (Appeals)-1, Gurgaon pertaining to assessment year 2014-15.

2. The dispute in the present appeal is confined to disallowance of travelling expenses.
3. Briefly, the facts are, assessee is a corporate entity stated to be engaged in the business of providing information technology enabled

services, software development and incidental support services to the customers. For the assessment year under dispute, assessee filed its return of income on 25.11.2014 declaring loss, both, under the normal provisions as well as under Section 115JB of the Income-Tax Act,1961.

4. In course of assessment proceedings, while examining profit and loss account of the assessee, the assessing officer noticed that in the year under consideration, assessee had claimed deduction for an amount of Rs.22,38,441 towards international travelling expenses. After calling for and examining the necessary details relating to the expenditure incurred, the assessing officer found that in some instances, the expenditure do not relate to any business activity of the assessee and in some other cases, the assessee could not furnish the name of the employees and period of travelling. Thus, holding that the genuineness of expenditure claimed could not be fully established in absence of complete set of vouchers, the assessing officer disallowed 1/6th of the expenditure, which worked out to Rs.37,073.

5. The assessee contested the aforesaid disallowance before learned Commissioner (Appeals). After examining the details, learned

Commissioner (Appeals) noticed that some amount of international travel expenses were claimed in respect of Shri Atul Gupta who was an employee of the assessee till 30th September 2013 and thereafter he was appointed as promoter director in a UK based company. Whereas, the travel expenses related to period post is leaving the employment of the assessee. When this fact was confronted to the assessee, it was submitted that since in the year under consideration, Shri Atul Gupta did not introduce any new client, only travelling expenses were reimbursed. Being of the view that expenses incurred on international travel of Shri Atul Gupta is not for assessee's business, learned Commissioner (Appeals) disallowed the entire expenses relating to Shri Atul Gupta amounting to Rs.9,28,543.

6. Before me, learned counsel appearing for the assessee submitted that after Shri Atul Gupta left, his employment with the assessee, he became director of Media Agility UK. Since, the clients of the assessee are located not only in India but abroad as well, to maintain its brand royalty, retained existing client and acquiring new client, the assessee utilized the services of Shri Atul Gupta. He submitted, Shri Atul Gupta was working as Senior Sales Executive with the assessee

having the role of developing new business for the company. He submitted, though, after he became director of Media Agility UK, he was not paid salary w.e.f. 01.10.2013, however, he continued to work for the benefit of the assessee. Therefore, the management decided to reimburse the travelling expenses of Shri Atul Gupta. He submitted, through the efforts of Shri Atul Gupta, the assessee had been able to generate business in subsequent assessment years. Thus, he submitted, since, the travelling expenses relating to Shri Atul Gupta is wholly and exclusively for the purpose of assessee's business, it has to be allowed.

7. In support of such contention, learned counsel relied upon the following decisions:

1) S.A. Builders Ltd. Vs. CIT [2007] 158 Taxmann.74(SC) ; &

2) Rahuljee & Co. (P) Ltd. Vs. Income-Tax Appellate Tribunal – I* - [2012] 22 taxmann.com 73 (Delhi).

8. Learned Departmental Representative strongly relied upon the observations of the assessing officer and learned Commissioner (Appeals).

9. I have considered rival submissions and perused the material available on record. The decisions relied upon by the learned counsel appearing for the assessee were also examined.

10. Undisputedly, when the assessing officer called upon the assessee to justify the claim of international travelling expenses, the assessee took a stand that such expenses in relation to international travel of employees and directors are for the purpose of business. However, while analyzing the factual details, learned Commissioner (Appeals) could find that expenses incurred in respect of one of the persons, namely, Shri Atul Gupta is not related to assessee's business as the concerned person has ceased to be an employee of the assessee after 30th September 2013. When this fact was brought to the notice of the assessee, who all along was taking a stand that international travelling expenses were for the travel of employees and directors, changed his stand by submitting that even after Shri Atul Gupta left his services with the assessee company, still, he was working for generating business of the assessee overseas. As per the factual finding recorded by learned Commissioner (Appeals), the traveling expenses claimed in relation to Shri Atul Gupta are for the period

between 01.10.2013 to 31.03.2014 i.e. after he left the employment of the assessee. Except some internal correspondences with Shri Atul Gupta, letter of appointment of Shri Atul Gupta with Media Agility UK and some other documents relating to the period of employment with the assessee, no other documentary evidence of substance has been furnished by the assessee to demonstrate that Shri Atul Gupta was in any manner promoting or benefiting the business of the assessee. Thus, factually, there is no nexus between the international travelling expenses incurred in respect of Shri Atul Gupta and business of the assessee. As regards the decisions relied upon by learned counsel for the assessee, though, I respectfully abide by the ratio laid down therein, however, in my humble opinion, they have been decided based on their peculiar facts, hence, not applicable to facts of assessee's case. This is so because, the assessee has failed to prove factually that the travelling expenses incurred in respect of Shri Atul Gupta is wholly and exclusively for the purpose of assessee's business.

11. In view of the aforesaid, I do not find any valid reason to interfere with the decision of learned Commissioner (Appeals) on the issue. Accordingly, the disallowance made is upheld.

12. In the result, the appeal is allowed.

Order pronounced in the open court on 17th November, 2022.

Sd/-
(SAKTIJIT DEY)
JUDICIAL MEMBER

Dated: 17th November, 2022.

Mohan Lal

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi

Sl. No.	Particulars	Date
1.	Date of dictation (Order drafted through Dragon software):	11.11.2022
2.	Date on which the draft of order is placed before the Dictating Member:	14.11.2022
3.	Date on which the draft of order is placed before the other Member:	-
4.	Date on which the approved draft of order comes to the Sr. PS/PS:	16.11.2022
5.	Date of which the fair order is placed before the Dictating Member for pronouncement:	16.11.2022
6.	Date on which the final order received after having been signed/pronounced by the Members:	21.11.2022
7.	Date on which the final order is uploaded on the website of ITAT:	21.11.2022
8.	Date on which the file goes to the Bench Clerk	21.11.2022
9.	Date on which files goes to the Head Clerk:	
10.	Date on which file goes to the Assistant Registrar for signature on the order:	
11.	Date of dispatch of order:	