

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

**Before Sh. C. N. Prasad, Judicial Member**

**Dr. B. R. R. Kumar, Accountant Member**

**ITA No. 2502/Del/2019 : Asstt. Year : 2014-15**

Automotive Component Manufactures Association of India, 6 <sup>th</sup> Floor, The Capital Court, Olof Palme Marg, Munirka, New Delhi-110067	Vs	DCIT, Central-3(2), New Delhi-110002
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>
<b>PAN No. AAKCA3946Q</b>		

**Assessee by : Sh. I. P. Bansal, Adv. &  
Sh. Vivek Bansal, Adv.  
Revenue by : Sh. Kanav Bali, Sr. DR**

**Date of Hearing: 07.09.2022**

**Date of Pronouncement: 23.11.2022**

**ORDER**

**Per Dr. B. R. R. Kumar, Accountant Member:**

The present appeal has been filed by the assessee against the order of the Id. CIT(A)-11, New Delhi dated 15.02.2019.

2. Following grounds have been raised by the assessee:

*"1. That the authorities below have erred both in law and on facts in treating capital grants as revenue grants.*

*2. That the authorities below are grossly wrong in bringing to tax capital grants of Rs.37,70,000/- received for participating in Automechanica held in Dubai, UAE from 3<sup>rd</sup> to 5<sup>th</sup> June, 2014 relevant to Assessment Year 2015-16 and another balance grant of Rs.3,27,661/- representing balance unutilized grant which was later returned to the ministry with interest Rs.10,056/- in terms of condition given in grant sanctioned letter.*

*3. That the learned authorities below have overlooked the fact that capital grants are always subject to completion of an obligation.*

*4. That unmindful of the fact that grant of Rs. 37,70,000/- which was treated as revenue grant was in fact an advance grant meant to be used in the Assessment Year 2015-16 since event was held in assessment year 2015-2016.*

*5. That the learned CIT (Appeals) has wrongly invoked clause (XVIII) of section 2(24) since this clause was introduced with effect from 1st April, 2016 relevant to assessment year 2016-11.*

*6. That the assessing officer has erred in not giving credit for the entire amount of TDS deductions as shown in Forms/26 AS. Against total TDS deductions of Rs. 1,31,97,394/- he has allowed deductions of Rs. 77,28,777/- only.*

*7. That since no refund was issued to the assessee association therefore, levy of interest u/s 234D was arbitrary and hence uncalled for.*

*8. That the assessment being bad in law needs to be revisited."*

3. The assessee is an apex body of automobile manufacturers association registered on 10.06.1983. The Ministry of Commerce and Industry has approved the assessee for MAI (Market Access Initiative scheme) dated 03.06.2011. The details of the MDA scheme provides financial support for reimbursement of expenses and promotion of exports. In order to promote the interest of its members, the assessee is facilitating their participation in overseas exhibitions for which in respect of specific of such exhibitions the government gives grant which is directly reduced by the assessee out of expenditure incurred by

it and net revenue after deducting reduced expenses by the amount of grant is disclosed as revenue.

4. Heard the arguments of both the parties and perused the material available on record.

5. The amount of Rs. 37,70,000/- added by the AO relates to exhibition namely Automechanika, Dubai held on 03.06.2014 to 05.06.2014. The said amount is part of the balance shown in ledger account under the head "Grant from MOCI Under MAI Scheme"- (pg. 140 of PB). The cap for total grant was fixed for an amount of 94.25 lakhs as per letter of Ministry dated 14-11 - 2013 (pg-134 of the PB) out of which a sum of Rs. 37,70,000/- was released as first installment as per this letter- pg. 135. On completion of this exhibition the assessee submitted the accounts as per letter dated 29.08.2014 in Form GFR 19-A(i)(a)- (pgs. 136-137 of PB) claiming therein that eligible expenditure on the exhibition has been incurred at a sum of Rs. 1,38,65,189/- for which there is a cap of 65% which was calculated at a sum of Rs. 85,61,493.85 and out of this sum a sum of Rs. 37,70,000/- was released as advance by way of a first installment and a further sum of Rs. 47,91,493.85 is required to be remitted to the assessee which has been released as second installment vide letter dated 25 -09-2014. Copy is placed at (pgs. 138-139 of the PB). Copy of ledger in respect of grant received from MOCI under MAI scheme for the period 01.04.2013 to 31.03.2014 and 01.04.2014 to 31.03.2015 are place at (pgs. 140 to 142 of the PB). The details of income, expenditure and surplus/deficit arising from exhibitions organized/held during FY 2014-15 are submitted at (pg. 143 of the PB) where the gross income is aggregated at a sum of Rs.

4,93,16,746.79 which includes gross income of Rs. 84,44,347/- from Automechanika Dubai show 03 to 05 June, 2014 which duly tallies with the total revenue reflected in note no. 7 at (pg. 92 of the PB) being audited financials for FY 2014-15. Similarly, gross expenditure incurred for overseas exhibitions is a sum of Rs. 3,89,21,483.06 and expenditure on this exhibition is a total sum of Rs. 53,66,058/-. This detail is available at (pg. 143 of the PB) which tallies with the net expenditure in the ledger related to this exhibition and copy of ledger is placed at (pgs. 144 to 148 of the PB) and net amount of expenditure is reflected at a sum of Rs. 53,66,058.34 at (pg. 148 of the PB). That a total amount of Rs. 85,61,493.85 being expenditure met by the grant issued by the MOCI is credited in this ledger on 30.08.2014, the entry being placed at (pg. 147 of the PB) being ledger of the expenditure. Thus, it is clear from the above documents that total expenditure incurred by the assessee on this exhibition was Rs. 1,39,27,552.19 out of which the amount of grant issued by MOCI is a sum of Rs. 85,61,493.85 and net of the expenditure being a sum of Rs. 53,66,058.34 has only been claimed as expenditure incurred for this exhibition. The disallowance is not called for.

6. It can be seen that out of this a sum of Rs. 19,80,000/- has been shown under the sub-head "grant due from MOCI under MAI scheme" and apart from this no other sum is related to grant issued by MOCI and the said amount of Rs. 19,80,000/- relates to Moscow show and was pending to be received as on 31.03.2014. This amount of Rs.19,80,000/- was received from MOCI on 02.07.2014 and is duly reflected in the ledger under the same head the copy of which is filed at (pg. 141 to 142 of

the PB). Therefore, the sum of Rs.37,70,000/- is not part of note 6.5 as has been alleged by the AO. Since, the event was to happen in next FY i.e. FY 2014-15 the entire sum of RS.37,70,000/- has been shown under a separate head "EQUITY AND LIABILITY" sub-head Funds & grant received from MOCI under MAI scheme and note no. is 2.5 at (pg. 72 of the PB). As the concerned event was to happen in June, 2014, till then the said amount was only an advance installment and is held in trust by the assessee for Government of India and it cannot be considered as part of revenue. The eligibility to claim it will certainly be a point of time after happening of the event.

7. In view of the scheme and the assistance gained by the assessee, the amount of Rs.37,70,000/- being 40% of the total approved grant in aid of Rs.94.25 lacs which was granted on 29.08.2014 and grant of second installment of Rs.47,91,194/- has also been approved by the Department of Commerce vide letter issued dated 25.09.2014 and have been duly accounted, we hold that the disallowance made by the Id. CIT(A) of Rs.37,70,000/- cannot be sustained.

8. With regard to the amount of Rs.3,27,661/-, we find that the amount has been refunded on 03.07.2014 vide cheque No. 860 dated 03.07.2014 with HDFC Bank, DD in the name of Pay & Accounts Officer, Department of Commerce. Since, the unutilized amounts stands refunded, no disallowance is called for on this account.

**TDS Credit of Rs.77,28,777/-:**

9. The order passed by Id. CIT(A) is dated 15-02-2019. More than three and half year have passed and the direction given by Id. CIT(A) to AO have not been complied with. The relevant details, as gathered and supported by the help of form no. 26AS, were submitted to enable the AO to check and verify his record to see that what items of TDS are not adjusted while giving credit and what items are adjusted. The assessee was having two PANs one as AOP and one as company and has sought cancellation of PAN pertaining to the AOP. We also find that the tax has been deducted by the members of the assessee's association on old PAN as well as on new PAN. We have gone through the copy of the reconciliation of TDS deducted by companies/ banks for the A.Y. 2014-15 and also the copy of TDS deduction claimed in the ITR. We have perused the Form 26 AS of the assessee company status having PAN - AAKCA3946Q and also in the AOP status having PAN - AAATA1724F. We have also examined the correspondence with the Pr. DG(Systems) for changes or correction in the PAN data . The assessee has also requested for the deactivation of PAN - AAATA1724F to DDIT(Exemption), Circle-1(1). The correspondence between the assessee and Department in this regard is also filed along with other details at (pgs. 164 to 259 of the PB.) The matter has been agitated before various authorities of the revenue department till October 29, 2018. It was submitted that no credit of the TDS has been given till now.

10. We find such cavalier attitude on the part of the AO is highly deplorable and against the Citizen's charter of the CBDT pertaining to standards of service delivery. The FY21 budget has

now extended legislative sanctity to such Charter by giving it statutory force. Delay of a period of almost five years cannot be validated by any *raison d'être* of revenue authorities. Hence, we direct that the act of giving credit of TDS be completed within three months of the date of this order. The appeal of the assessee on this ground is allowed.

11. In the result, the appeal of the assessee is allowed.

Order Pronounced in the Open Court on 23/11/2022.

Sd/-

**(C. N. Prasad)**  
**Judicial Member**

**Dated: 23/11/2022**

\*Subodh Kumar, Sr. PS\*

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Sd/-

**(Dr. B. R. R. Kumar)**  
**Accountant Member**

**ASSISTANT REGISTRAR**