

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

**BEFORE,
SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

**ITA No.842/Del/2020
(ASSESSMENT YEAR 2014-15)**

Dy. CIT, Circle-7(1), New Delhi	Vs.	M/s Delhi Academy of Medical Sciences Pvt. Ltd. 205, 2 nd Floor, 4B, Pusa Road, New Delhi-110 005 PAN-AADCD 1157F
(Appellant)		(Respondent)

Appellant by	Ms. Maimun Alam, Sr. DR
Respondent by	Mr. Pulkit Saini, Advocate

Date of Hearing	27/04/2023
Date of Pronouncement	28/06/2023

ORDER

PER M. BALAGANESH AM:

This appeal of the Revenue arises out of the order of the Learned Commissioner of Income Tax (Appeals)-3, New Delhi, [hereinafter referred to as 'Ld. CIT(A)'] in Appeal No.3/20564/2016-17 dated 12/12/2019 against the order passed by Dy. Commissioner of Income Tax, Circle-7(1), New Delhi

(hereinafter referred to as the 'Ld. AO') u/s 143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') on 30/12/2016 for the Assessment Year 2014-15.

2. The assessee has raised sole ground of appeal:

1. *“On the facts and in circumstances of the case and in law, the CIT(A) has erred in deleting the addition of Rs.3,14,60,800/- on account of disallowing Professional Expenses.”*

2. *“The appellant craves to add, amend or forgo any ground(s) of appeal at any time before or during the hearing of this appeal.”*

3. The only issue to be decided in this appeal is as to whether the Ld. CIT(A) was justified in deleting the disallowance made on account of Professional Expenses in the sum of Rs.3,14,60,800/- in the facts and circumstances of the instant case.

4. We have heard the rival submissions and perused the material available on record. The assessee is engaged in imparting coaching classes for M.D./M.S. Entrance Examinations. The assessee has debited a sum of Rs.4,54,12,316/- as “Professional Expenses” in the profit and loss account. The details of exact service rendered was directed to be furnished by the Ld. A.O. together with the production of the parties in person. The A.O. directed the assessee to produce the following four parties:-

- (i) M/s Offset India Solution Private Limited
- (ii) OIS Advance Technology Private Limited
- (iii) SGA Project Private Limited
- (iv) Jay Ace Technology Private Limited

The assessee failed to produce the parties before the Ld. A.O. for examination. The Ld. A.O. issued summons u/s 131 of the Act to these parties. In response thereto, two parties i.e., (i) M/s SGA Project Private Limited and (ii) Jay Ace Technology Private Limited attended before the Ld. A.O. wherein these two parties confirmed the rendition of professional services to the assessee and also receipt of professional charges from the assessee together with the agreement entered into with the assessee company.

5. The Ld. A.O. received information that a search u/s 132 of the Act was conducted by the Investigation Wing, New Delhi in the case of Sh. Sanjay Bhandari, who is a Director in M/s OIS Advance Technology Private Limited and M/s Offset India Solution Private Limited. A survey was also conducted u/s 133A of the Act on these two companies along with search in the case of Sh. Sanjay Bhandari. During the search, it was revealed that these companies

were found to route unaccounted income in the form of bogus share capital and bogus unsecured loans from several sham companies. Accordingly, the Ld. A.O. concluded that the payment of Professional Charges made by the assessee to these two concerns as bogus. The assessee in response to the show cause notice, the assessee replied that it had already furnished the complete details of all these parties, bills raised by them, confirmed copy of accounts, their PAN, their CIN number, copy of agreement with these parties for Professional Services, copy of ITRs and their bank statements. Independent notices issued u/s 133(6) of the Act to these parties calling for various information were directly responded by these parties before the Ld. A.O. confirming the fact of rendition of services and receipt of professional charges from the assessee. Despite this, the Ld. A.O. based on the information obtained during the search of Sh. Sanjay Bhandari, proceeded to treat the payment of professional charges to the aforesaid two concerns as bogus and disallowed the same in the assessment.

6. The assessee pleaded that this professional expenditure was incurred by the assessee for the purposes of services received in

connection of strategy formulation for increase in turnover, student base and brand value. Thus the expenditure incurred by the assessee company is for the purposes of increasing revenue base of the company and to carry out activities of the assessee more efficiently and profitably. It was also pointed out that both these companies possess expertise in research, marketing, sales and services and provide personalized and customized portfolio of advisory and consulting services, related to strategy, policy formulation, partnering, implementation, compliance and all other related services. The assessee also brought on record that pursuant to availing services from these two companies, the turnover of the assessee increased two fold and students enrolment also doubled. The Ld. CIT(A) duly appreciated the aforesaid submissions and deleted the disallowance.

7. We find that the assessee in the instant case had furnished all the requisite documents that were called for by the Ld. A.O. The assessee had duly proved the rendition of professional of services by these two companies. The assessee had made payment of professional charges to these two parties through account payee

cheques after deduction of tax at source after ensuring that the professional services had been actually rendered to it. The assessee had also furnished his professional service agreement entered into with these companies before the lower authorities. Independent examination carried out by the Ld. A.O. on these parties by calling for information u/s 133(6) of the Act stood directly complied with by these two parties before the Ld. A.O. duly confirming the fact of rendition of professional services to the assessee and receipt of professional charges for the same from the assessee. The professional charges received by these parties were also disclosed in their income tax returns, in support of which copy of their ITRs were also furnished by the assessee. Pursuant to receipt of professional charges from these two parties, the turnover of the assessee had doubled from Rs.20.74 Crores for A.Y.2013-14 to Rs.49.03 Crores for A.Y.2014-15. None of these facts were controverted by the Revenue before us by cogent evidences. When all these facts are staring on us, we hold that the Ld. A.O. was grossly unjustified in treating the incurrence of professional expenses as bogus merely by placing reliance on the statement recorded from Sh. Sanjay Bhandari during the course of his search.

In other words, the statements that had been used against the assessee have not been provided to the assessee for the purpose of its rebuttal. Hence, those statements cannot be used against the assessee. These facts were duly appreciated by the Ld. CIT(A) while deleting the disallowance which does not warrant any interference. Accordingly, the ground raised by the Revenue is dismissed.

8. In the result, the appeal filed by the Revenue is dismissed.

Order pronounced in the open court on 28th June, 2023.

Sd/-
(CHANDRA MOHAN GARG)
JUDICIAL MEMBER

Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated: 28/06/2023

Pk/sps

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI

