

**INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "F": NEW DELHI  
BEFORE SHRI SAKTIJIT DEY, VICE PRESIDENT  
AND  
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

**ITA No.4854/Del/2017  
(Assessment Year: 2014-15)**

QRG Central Hospital Research Centre Ltd, 909, 9 <sup>th</sup> Floor, Surya Kiran Building, KG Marg, Connaught Place, New Delhi (Appellant) <b>PAN:AAACQ1682M</b>	Vs. ACIT, Circle-21(2), New Delhi          (Respondent)
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**ITA No.4283/Del/2018  
(Assessment Year: 2015-16)**

QRG Central Hospital Research Centre Ltd, 909, 9 <sup>th</sup> Floor, Surya Kiran Building, KG Marg, Connaught Place, New Delhi (Appellant) <b>PAN:AAACQ1682M</b>	Vs. ACIT, Circle-20(2), New Delhi          (Respondent)
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Assessee by :	Dr. Rakesh Gupta, Adv Shri Deepesh Garg, Adv
Revenue by:	Shri S. L. Anuragi, Sr. DR
Date of Hearing	14/11/2023
Date of pronouncement	07/02/2024

O R D E R

**PER M. BALAGANESH, A. M.:**

1. The appeal in ITA No.4854/Del/2017 for AY 2014-15, arises out of the order of the Commissioner of Income Tax (Appeals)-7, New Delhi [hereinafter referred to as 'Id. CIT(A)', in short] in Appeal No. 10675/224(CIT(A)-7/2016-17 dated 20.06.2017 against the order of assessment passed u/s 143(3) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 22.12.2016 by the Assessing Officer, ACIT, Central Circle-21(2), New Delhi (hereinafter referred

to as 'Id. AO') and for AY 2015-16 against the order of the Id CIT(A)-7, New Delhi dated 14.05.2018 against the order of assessment passed u/s 143(3) dated 19.12.2017 passed by Id ACIT, Circle-20(2), New Delhi.

2. Identical issue is involved in both the appeals and hence they are taken up together and disposed of by this common order for the sake of convenience. The facts pertaining to Asst Year 2014-15 are taken up for adjudication and the decision rendered thereon shall apply with equal force for Asst Year 2015-16 also except with variance in figures.

3. The only identical issue to be decided in this appeal is as to whether the Id. CIT(A) was justified in confirming the disallowance of legal and professional charges in the facts and circumstances of the case.

4. We have heard the rival submissions and perused the materials available on record. During the year under consideration, the assessee was engaged in the business of hospital and research center. The Id. AO observed that the assessee had booked expenditure on payments to advocates for several court cases of Rs 2,80,788/- under the head 'legal and professional expenses'. The assessee was asked to give the details of the Court cases and to justify the allowability of such expenses as business expenditure of the assessee company. The details of the court cases together with the legal and professional charges paid to the concerned advocates and their TDS details were duly furnished by the assessee before the Id. AO. The assessee explained that expenses were incurred on account of a civil suit filed by the ex-partners of the erstwhile firm M/s Central Hospital & Research Center and that the business of the said firm had been taken over by the assessee company w.e.f. 01.4.2008. The assessee contended that the liabilities of the firm to defend the suit are business expenses of the company. The Id. AO observed that the expenses are incurred in respect of the ownership of the firm and takeover of its business assets and liabilities which is a capital expenditure as well as personal expenses amounting to be Rs 2,80,788/- cannot be allowed as expenses wholly and exclusively for business purposes.

4.1. Further the assessee also incurred legal expenses of Rs 3,76,069/- on case filed under PNDT Act instituted by the State Government against the assessee company and two of its directors. The assessee explained that the case was filed for short comings in maintenance of record and penalty of Rs 10,000/- was imposed which may be disallowed. The Id. AO observed that on perusal of the order of the Hon'ble Chief Judicial Magistrate, Faridabad that the case was filed on a compliant u/s 28 of the PNDT (Prohibition of Sex Selection) Act, 1994 and the assessee company was convicted u/s 23 of the said Act. Hence the entire expenditure incurred thereon would only have to be construed as expenditure in the nature of an offence or penalty for violation of law for the time being in force as per Explanation to Section 37 of the Act and hence to be disallowed.

4.2. Similarly legal expenses of Rs 1,79,776/- was incurred in connection with a complaint filed by the Haryana State Pollution Control Board against the assessee for not obtaining environmental clearance. The Id. AO observed that on perusal of the order dated 5.4.2013 of the Presiding Officer of the Special Environment Court, Faridabad, it reveals that the Court had held that the assessee company had violated the provisions of section 15 of the Environment Pollution Act and the accused being assessee company had been summoned to face trial for such infringement. Accordingly, the Id.AO held that the said legal expenses of Rs 1,79,776/- was incurred for violation of law in force thereby attracting Explanation 1 to section 37 of the Act and hence liable to be disallowed.

4.3. With the aforesaid observations, the Id. AO proceeded to disallow the legal and professional charges incurred hereinabove to the tune of Rs 8,36,633/- apart from disallowing the penalty of Rs 10,000/- paid by the assessee.

5. The aforesaid action of the Id. AO was upheld by the Id. CIT(A).

6. At the outset, it would be relevant to consider the details of expenses incurred in respect of legal and professional charges paid to Advocate Shri Rajiv Shanker Dvivedi of Rs 2,80,788/- for the following cases:-

Details Of legal and professional for the year ended 31 <sup>st</sup> March 2017					
Name of party	Address	Particulars	Amount	TDS	Remarks
M/s Rajiv Shankar Divedi	17S, Supreme Enclave Apptts, Mayur Vihar Phase-1 New Delhi	Civil Suit No. 274,Sr. Division, Fbd, Tited Dr. Anoop Chopra V/S Chrc 33,708	33,708	3000	The civil suits have been filed by the ex-partners of the firm whose business have been taken over by the assessee company.
		Civil Suit No. 274,Sr. Division, Fbd, Tited Dr. Anoop Chopra V/S Chrc	47,304	4,210	
		Civil Suit No. 274,Sr. Division, Fbd, Tited Dr. Anoop Chopra V/S Chrc	8,989	800	
		Civil Suit No. 274,Sr. Division, Fbd, Tited Dr. Anoop Chopra V/S Chrc And Suit No. 394 Of Dr. Vibha Gupta	68,652	6,110	
		Civil Suit No. 274,Sr. Division, Fbd, Tited Dr. Anoop Chopra V/S Chrc And Suit No. 394 Of Dr. Vibha Gupta	60,337	5,370	
		Civil Suit No. 274,Sr. Division, Fbd, Tited Dr. Anoop Chopra V/S Chrc And Suit No. 394 Of Dr. Vibha Gupta	30,899	2,750	
		Civil Suit No. 274,Sr. Division, Fbd, Tited Dr. Anoop Chopra V/S Chrc And Suit No. 394 Of Dr. Vibha Gupta	30,899	2,750	
M/s. Praveen Sharma	Hno. 1753 Sector 16, Faridabad	Fee of case under PNDDT Act Incidental Exp. In curred in the PNDDT Matter	191,012 21,011	17,000 1,870	The appeal filed before Faridabad Court against the order of PNDDT authority

6.1. Similarly payment made to Advocate Shri Praveen Sharma of Rs 3,76,069/- is as under:-

Details Of legal and professional for the year ended 31 <sup>st</sup> March 2017					
Name of party	Address	Particulars	Amount	TDS	Remarks
M/s. Praveen Sharma	Hno. 1753 Sector 16, Faridabad	Fee of case under PNDDT Act Incidental Exp. In curred in the PNDDT Matter	191,012 21,011	17,000 1,870	The appeal filed before Faridabad Court against the order of PNDDT authority

6.2. Similarly payment made to Advocate Shri Ram Kumar Gupta of Rs 1,79,776/- is as under:-

Details Of legal and professional for the year ended 31 <sup>st</sup> March 2017					
Name of party	Address	Particulars	Amount	TDS	Remarks
M/s. Ram Kumar Gupta	Kothi No. 38C, Chawla Colony, Ballabgarh	Matter Pertaining PNDDT Act Special environment Court, Faridabad	164046 179776	16,000	The appeal filed before the High court of Punjab & Haryana against the order of Special Environment court Faridabad

6.3. The Id. AR drew our attention to the submissions made by the assessee before the lower authorities which are reproduced hereunder:-

*"a) That the AO has disallowed a sum of 22,80,788/-on account of legal expenses incurred in the case of civil suit filed by the ex-partners of the firm. M/s Central Hospital and Research Centre. That the AO has disallowed the same on the basis that the said legal expenses are a capital expenditure as well as personal expenditure of the directors/ ex- partners of the Company/ firm. In this connection, it is submitted as under:-*

*"i) That the business of the erstwhile partnership firm was taken over by the appellant with effect from 01/04/2008 as a going concern with all its assets and liabilities. The copy of the balance sheet and accounts for the year ending 31/03/2008 is enclosed. The note no. Cl of Schedule 15 reads as under:"*

*The Company has taken over the running business of the partnership firm M/s Central Hospital & Research Centre, a going concern with all the assets and liabilities w.e.f. 01.04.2008. The total assets and liabilities.....*

*The suit filed by the is regarding the rendition of the accounts and to restrain the defendants from selling off, transferring, alienating creating third party rights or/and assigning in any manner whatsoever any of the moveable or immovable property of the hospital or belonging including the shares.*

*iii) In this connection, it is further submitted as under:- In the various judicial decisions, it has been held that the expenses of civil litigation is permissible as an expense which is wholly and exclusively laid out for the purpose of the business. The matters in respect of the proceedings must have arisen out of or must have been incidental to the assessee's business. An assessee have been said to have incurred this expense in his character if the litigation is necessary to be carried down by the assessee or defended by it to protect its trade or business or to avert a danger or threat to its carrying on of its business. In this connection, please refer to the decision of the Hon'ble High Court in the case of CIT v. New Garage Ltd. (1981) 129 ITR 122 (Del.). It follows that in order to allow the litigation expenses, the proceedings in a civil court must relate to and arise out of business.*

*b) That the AO has further disallowed a sum of ₹3,86,069/-on account of civil suit filed in the Court of Chief Judicial Magistrate, Faridabad by the State (through District Appellant Authority cum Surgeon, Faridabad) against the Company. The suit was filed by the State (through District Appropriate Authority (PNDD)- cum-Civil surgeon, Faridabad) vs. QRG Central Hospital and Research Centre, 69, Sector 20-A, near Neelam Flyover, Ajrona Chowk, Faridabad, through its Directors, Dr. Nirmesh Verma, Radiologist, 69, Sector 20-A, near Neelam Flyover, Ajrona Chowk, Faridabad and Dr. Gagan Sharma, Radiologist, 69. Sector 20-A, near Neelam Flyover, Ajrona Chowk, Faridabad, through its Directors in respect of complaint filed u/s 28 of Pre- Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 and Amendment 2002 & Rules made their under.*

*In the said case, it was held by the Hon'ble Court that some irregularities were found in the maintenance of records and directed that the office of the Civil Surgeon Faridabad should monitor the maintenance of record of the accused no. I hospital on monthly basis for at least 3 months. The Hon'ble Court further held that the authorised representative is sentenced to the simple imprisonment till rising of court hours and to pay a fine of ₹10000/-.*

*That in the above case, some irregularities were found in the maintenance of records only. The Company has not violated any of the provisions of the law and the expenses as claimed are allowable.*

*c) That the AO has further disallowed a sum of ₹1,79,776/- in the case of complaint filed by the Haryana State Pollution Control Board for not obtaining environment clearance.*

*i) In the said complaint, it was stated that the environmental clearance from the competent authority (State Environment impact Assessment Authority, Haryana) is required before starting any operation/ construction of projects etc. for more than 20,000 sq. Mts. by any interested person or persons and all the procedure has been provided there in the notifications.*

*ii) It was alleged that the appellant Company has made new construction of more than 20,000 sq. Mts. and has completed the same without obtaining any prior Environment Clearance from the Ministry of Environment and forest or State Environment Impact Assessment Authority, Haryana as per the procedure laid down in the notification and as such this construction being raised in violation of notification thereof, invited action u/s 15 of the Environment Protection Act.*

*iii) During the trial, the appellant contented that the notification dated 14/09/2006 is only applicable to the projects and is not applicable to the construction activity. The Hon'ble Court stayed the further proceedings in the matter. A copy of the stay order of the Court is enclosed.*

*iv) Since the expense has been incurred for the purpose of business and carried out by the appellant to protect its trade/ business and to avert a danger to carry out its business, the expenditure is intrinsically connected with the running of the Company and if it had not been incurred the Company would not be able to operate in the field of its business.*

*Since the Company has not violated any provisions of law and the expenses claimed are allowable."*

6.4. Per Contra, the Id. DR vehemently relied on the orders of the lower authorities and reiterated the fact that the expenditures were incurred only for violation of various laws by the assessee company and hence the payments made would squarely fall under the ambit of provisions of Explanation 1 to Section 37 of the Act liable for disallowance.

6.5. At the outset, we find that from the perusal of the aforesaid explanations given by the assessee explaining the purpose of payments to advocates, it is very clear that no payment has been made by the assessee in the form of any penalty and that no penalty had been levied by any statutory authority for violation of any law for the time being in force. All the aforesaid payments are made only to the advocates who are defending the assessee company in the ordinary course of its business. These expenses are nothing but expenses incurred to protect the image of the assessee company and for ensuring the smooth conduct of the business of the assessee company. None of the explanations given by the assessee hereinabove were found to be false by the revenue and that all these payments together with the purpose of payments are duly covered by documentary evidences. All the payments are made by regular banking channels after due deduction of tax at source and the payees are identifiable. The assessee on its part had duly filed the details of payments, purpose of payments, name and address of the advocates, TDS details, details of litigation, court papers and the relevant court orders. None of the payments fall under the ambit of provisions of Explanation 1 to Section 37 of the Act. They are neither penal in nature nor capital or personal in nature. We find that the Id. AR had rightly placed reliance on the decision of Hon'ble Jurisdictional High Court in the case of CIT vs New Garage Ltd reported in 129 ITR 122 (Del) which reads as under:-

*"This is a reference at the request of the Commissioner of Income-tax by the Income-tax Appellate Tribunal. The respondent-assessee is New Garage Ltd., which is now under winding up. The reference relates to the assessment year 1962-63.*

*The assessee is a limited company. The business of the assessee during the previous year relevant to the assessment year 1962-63 was that of repairing vehicles, selling tractors, implements and spares purchased from M/s. Escorts Ltd. For the purpose of this business, the assessee-company maintained a show-room at No. 11, Scindia House, New Delhi.*

*Sometime in the year 1961, the subscribed capital of the company was raised from Rs. 1 lakh to Rs. 2 lakhs. All the newly issued shares were purchased by what has been described as the Escorts group, and the Escorts group thus came to have a controlling interest in the assessee-company.*

*The landlord of the above premises filed a suit against the assessee-company for eviction. Subsequently, the suit was compromised and the assessee agreed to pay a sum of Rs. 10,000. While completing the assessment for 1962-63, the ITO refused to give the assessee a deduction of the sum of Rs. 10,000 on the ground*

*that it had not been paid for any legitimate business needs of the company. On appeal, the AAC took the view that the amount was inadmissible as it was of capital nature. However, on further, appeal by the assessee, the Tribunal pointed out that in the present case there had been no change in the company itself, though there had been a change in the shareholding. The assessee-company was and continued to be the tenant of the premises and the tenancy rights which were very valuable were in jeopardy when the landlord filed an eviction suit. The assessee was merely protecting the danger to its capital assets in the shape of tenancy rights. The amount was thus spent to maintain the existing capital assets. The Tribunal pointed out that the case would have been substantially different if the assessee had paid Rs. 10,000 to acquire a new lease. In that case, the amount would have been a capital expenditure. But, in the present case, what turned the scales in favour of the assessee was the fact that it was an old tenant which continued the tenancy. The Tribunal, therefore, held that the assessee was entitled to the deduction of the sum of Rs. 10,000 in computing its business income.*

*The following question has been referred to this court for its opinion.*

*"Whether, on the facts and in the circumstances, the Tribunal was right in law in holding that the sum of Rs. 10,000 was a business expenditure of revenue nature entitled to deduction in computing the total income of the assessee-company?"*

*We are in full agreement with the view taken by the Tribunal. As pointed out by it, the assessee-company was the tenant of the premises in question. The tenancy rights were very valuable rights and what all the company did was to defend and protect the existing rights. As a result of the expenditure, the assessee-company did not acquire any asset or enduring advantage. The principles in this respect are too well settled to require repetition. Suffice it to say that we agree with the view of the Tribunal and answer the question referred to us in the affirmative and in favour of the assessee. The assessee will be entitled to its costs. Counsel's fee Rs. 250."*

6.6. In our considered opinion, the entire payments made in the sum of Rs 8,36,633/- are only mere payments made to advocates for defending the case of the assessee company. This is similar to a lawyer being paid fees for appearance before the Tribunal, Commissioner (Appeals) or before the Assessing Officer in connection with income tax dispute of the assessee company. Hence they are squarely allowable as deduction.

6.7. In view of aforesaid observations and respectfully following the judicial precedent relied upon hereinabove, we direct the Id. AO to allow deduction for the sum of Rs 8,36,633/- to the assessee. Accordingly, the grounds raised by the assessee are allowed.

7. As stated earlier, the decision rendered for Asst Year 2014-15 shall apply mutatis mutandis to Asst Year 2015-16 also in view of identical facts except with variance in figures.

8. In the result, both the appeals of the assessee are allowed.

Order pronounced in the open court on 07/02/2024.

-Sd/-  
**(SAKTIJIT DEY)**  
**VICE PRESIDENT**

-Sd/-  
**(M. BALAGANESH)**  
**ACCOUNTANT MEMBER**

Dated: 07/02/2024  
A K Keot

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR  
ITAT, New Delhi