

आयकर अपीलिय अधिकरण, बी न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH, CHENNAI

श्री महावीर सिंह, उपाध्यक्ष एवं श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष
BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No. 1487/CHNY/2023
& C.O. No.09/CHNY/2024
(in ITA No.1487/CHNY/2023)
& ITA No.1495/CHNY/2023

निर्धारण वर्ष /Assessment Years : 2017-2018 & 2018-2019

The Deputy Commissioner of Income
Tax,
Non Corporate Circle 19(1)
Chennai

Dvara Trust
v. (Formerly known as IFMR Trust)
Phase I, 10th floor, IITM,
Research Park,
Taramani,
Chennai 600 113.

(अपीलार्थी/**Appellant**)

PAN: AAATI 5801P
(प्रत्यर्थी/**Respondent/ Cross Objector**)

Department by : Shri. D. Hema Bhupal, IRS, JCIT.

Assessee by : Shri. R. Vijayaraghavan, &
Shri. S.P. Chidambaram, Advocates

सुनवाई की तारीख/Date of Hearing : 08.04.2024

घोषणा की तारीख/Date of Pronouncement : 08.04.2024

आदेश /ORDER

PER MAHAVIR SINGH, VP:

These two appeals by the Department are arising out of different orders of the Commissioner of Income Tax (Appeals)-18, National Faceless Appeal Centre, Delhi in Order No.ITBA/NFAC/S/250/2023-24/1057073772 (1)

dated 16.10.2023 for assessment year 2017-2018 and Order No.ITBA/NFAC/S/250/2023-24/1057074019 (1) dated 16.10.2023 for assessment year 2018-2019. Assessee had filed Cross Objection for assessment year 2017-2018. The assessment order for the assessment year 2017-2018 were framed by the Deputy Commissioner of Income Tax, Non Corporate Circle 19(1) Chennai vide order dated 31.12.2019 and for assessment year 2018-2019 the assessment was framed by the Additional/Joint/Deputy/Assistant Commissioner of Income Tax/ Income-tax Officer, National e-Assessment Centre, Delhi u/s.143(3) of the Income Tax Act, 1961 (hereinafter the 'Act') vide order dated 20.04.2021.

2. The only issue in these two appeals of the Revenue is as regards to order of the Id. Commissioner of Income Tax (Appeals(in short 'the CIT(A)') directing the Id. Assessing Officer to allow expenses u/s.57 (iii) of the Act.

3. The brief facts of the case are that the Id. Assessing Officer while framing assessment assessed interest income under the head 'income from other sources" but has not allowed the expenses or amount given on common sharing mechanism whereas the Id. Assessing Officer admitted that the income is in the nature of providing shares services and infrastructure services . Assessee has taken up office space at IIT Madras Research Park and sharing services consists of providing IT, Marketing and Branding, HR,

Finance and administration through assessee's pool of employees to its 100% subsidiaries but the Id. CIT(A) relying on Co-ordinate Bench decision in assessee's own case for the assessment years 2011-2012, 2012-13 and 2014-15 in ITA Nos.233, 234 & 235/Chny/2019 vide order dated 14.03.2022 has allowed the claim of the assessee of sharing expenses by observing at paras 6.3 & 6.4 of his order as under:-

'6.3 After careful reading of the above order the law that is clear is that if there are no Incubation activities carried out, the income earned will be assessed under the head 'Income from Other Sources' and that the assessee would be eligible for the deduction of expenses sub-section (iii) of section 57 of the Act. The AO in the impugned order has not brought out any fact to demonstrate that there were incubation activities. Further, the appellant has been able to demonstrate that its case is covered under the above discussed decision of the ITAT and the CIT (Appeal) and that it is carrying out only Segment II activities. Respectfully following the decision, the AO is directed allow the expenses u/s 57(ii) of the Act. Further, it is to state that the

6.4 Respectfully following the order of the CIT (Appeal) and the Hon'ble ITAT, the income is to assessed under the head 'Income from Other Sources, and AO is directed to allow the expenses claimed u/s 57(iii) of the Act to earn the said income. The ground of appeal no 1,2,4 and 4 are allowed'.

At the time of hearing, the Id. Senior Departmental Representative could not point out what is the infirmity in the order of the Id. CIT(A). The Id. CIT(A) had followed the Tribunal order in assessee's own case in earlier assessment years and hence we affirm the order of the Id. CIT(A) on this issue. The appeals of the Revenue stand dismissed.

4. Coming to the Cross objection No.09/CHNY/2024 for assessment year 2017-2018 filed by the assessee arising out of ITA No.1487/CHNY/2023, Ld.

Counsel for the assessee only stated that the Id. Assessing Officer has not followed the direction of the Id. CIT(A). He took us to the order of the Id. CIT(A) in para 6.5 which reads as under:-

''6.5 The appellant in its ground of appeal no 5 assailed the disallowance of provision of doubtful advances no longer required and ad-hoc disallowances. The above grounds are adjudicated in the light of the adjudication of the main ground that the income is to be assessed under 'Income from Other Sources' with the corresponding benefit of the deduction of expenses u/s 57(iii) of the Act. The ground of appeal is allowed''.

Ld. Counsel for the assessee only stated that neither the Id. CIT(A) nor the Id. Assessing Officer has understood the issue but has mixed up the issue of disallowance of provision of doubtful and adhoc disallowances. The Id. Assessing Officer has arbitrary considered a sum of Rs.5,01,66,575/- as "income from other sources".

5. We have heard rival contentions and gone through facts and circumstances of the case. We find that none of the authorities below has adjudicated the issue properly and hence we remit the issue back to the file of the Id. Assessing Officer with a direction to give an opportunity to the assessee to explain these two issues separately and decide as per law.

6. The cross objection filed by the assessee is partly allowed for statistical purpose.

7. In the result, the appeals filed by the Department in ITA No.1487 and 1495/Chny/2023 for assessment years 2017-2018 & 2018-2019 stand

dismissed whereas cross objection No.9/CHNY/2024 filed by the assessee is partly allowed for statistical purpose.

Order pronounced in the open court at the time of hearing on 8th April, 2024 at Chennai.

Sd/-
(मनोज कुमार अग्रवाल)
(MANOJ KUMAR AGGARWAL)
लेखा सदस्य /ACCOUNTANT MEMBER

Sd/-
(महावीर सिंह)
(MAHAVIR SINGH)
उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,
दिनांक/Dated, the 8th April, 2024

KV

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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