

आयकर अपीलीय अधिकरण, हैदराबाद पीठ में
IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "B", HYDERABAD

BEFORE
SHRI K.NARASIMHA CHARY, JUDICIAL MEMBER
&
SHRI MADHUSUDAN SAWDIA, ACCOUNTANT MEMBER

आ.अपी.सं / ITA No.434/Hyd/2023
(निर्धारण वर्ष / Assessment Year: 2014-15)

GlobalLogic Technologies Private Limited 6 th Floor, Block 1 DLF Cyber City Hyderabad [PAN : AACDR5222K]	Vs.	Deputy Commissioner of Income Tax Circle-2(2) Hyderabad
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अपीलार्थी / Appellant

प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: Shri Tarandeep Singh, Adv
राजस्व द्वारा/Revenue by: Ms. Sheetal Sarin, DR

सुनवाई की तारीख/Date of hearing: 22/07/2024
घोषणा की तारीख/Pronouncement on: 13/08/2024

आदेश / ORDER

PER K. NARASIMHA CHARY, J.M:

Aggrieved by the order dated 30/06/2023 passed by the learned Commissioner of Income Tax (Appeals)- National Faceless Appeal Centre (NFAC), Delhi ("Ld. CIT(A)"), in the case of GlobalLogic Technologies Private Ltd. ("the assessee") for the assessment year 2014-15, assessee preferred this appeal.

2. Only issue involved in this matter is in respect of disallowance of provision made to the tune of ₹ 2,14,28,935/- towards travelling expenses.

At the outset, learned AR brought to our notice that the grievance of the assessee before the learned CIT(A), as recorded by the learned CIT(A) in his order at paragraph No. 5.3 and 5.4 was that no reasonable opportunity was given to the assessee for explaining the ground on which the disallowance was made. Despite the said fact the learned CIT(A) recorded that while the counsel was arguing during video conference, details such as opening provision, copies of lectures etc., were sought in order to verify how the provision was made and adjusted against the actual payment, but the material could not be produced before the learned CIT(A) for want of proper opportunity and though the learned CIT(A) claims to have called for such details vide order sheet noting dated 20/6/2023, but as a matter of fact, the assessee never received any such communication and that is the reason why the material could not be submitted before the learned CIT(A).

3. Learned AR submitted that all the material is now collected by the assessee and is ready to be submitted before the learned CIT(A) and given an opportunity, the assessee would establish before the learned CIT(A) that the provision was created taking into consideration the historical and systematic trade followed by the assessee over the years. Learned AR further submitted that it is only due to the reasons furnished above, the assessee could not furnish the documents before the learned CIT(A) and by not furnishing such documents before the learned CIT(A), the assessee does not stand to gain.

4. Learned DR vehemently opposed the request for opportunity by the learned AR and submitted that though the assessee furnished the written submissions way back on 12/12/2017, never subsequently the assessee showed any interest in furnishing the required documents before the learned CIT(A) and therefore, the learned CIT(A) is justified in rejecting the claim of the assessee.

5. We have gone through the record in the light of the submissions made on either side. Learned CIT(A) recorded that though the assessee

claimed to have created the provision for travelling expenses basing on the historical and systematic trend followed by the assessee for over the years, no documentary evidence substantiating such claim relating to the earlier years was furnished. Assessee submits that the communication referred to by the learned CIT(A) in the order sheet noting dated 20/6/2023 was never received by the assessee and had the assessee received such a communication, the assessee would have definitely submitted the requisite documents, because, the assessee does not stand to gain by withholding the best evidence available in the custody.

6. Having regard to these facts and circumstances, we are of the considered opinion that the highest that would happen by allowing an opportunity to the assessee would be that a cause could be decided on merits, because by withholding the best evidence available in their custody, the assessee does not stand to gain. We, therefore, set aside the impugned order and restore the appeal to the file of the learned CIT(A) to receive the evidence in the shape of the invoices for the earlier years and to take a view according to law. Grounds of appeal are answered accordingly.

7. in the result appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on this the 13th day of August, 2024.

Sd/-
(MADHUSUDAN SAWDIA)
ACCOUNTANT MEMBER

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Hyderabad,
Dated: 13/08/2024

Copy forwarded to:

1. GlobalLogic Technologies Private Limited, 6th Floor, Block 1, DLF, Cyber City, Hyderabad
2. The Deputy Commissioner of Income Tax, Circle-2(2), Hyderabad
3. The Pr.CIT, Hyderabad
4. DR, ITAT, Hyderabad
5. GUARD FILE

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ASSISTANT REGISTRAR
ITAT, HYDERABAD