

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH, CHENNAI

श्रीएम.बालगणेश, लेखासदस्यकेसमक्षएवं. श्रीएसएसविश्वनेत्ररवि, न्यायिकसदस्य
BEFORE SHRI M. BALAGANESH, ACCOUNTANT MEMBER
AND SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER

आयकरअपीलसं./ITA No.:2057/Chny/2025

निर्धारणवर्ष / Assessment Year:2014-15

M/s.AM International Holdings (India) Private Limited, No.88, SPIC House, Mount road, Chennai-600032. [PAN:AAJCA4759L]	vs.	Income Tax Officer, Corporate Circle-1(1) Chennai.
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थीकीओरसे/Appellant by

: Mr.Y.Sridhar, F.C.A

प्रत्यर्थीकीओरसे/Revenue by

: Ms.R.Anitha, Addl.CIT

सुनवाईकीतारीख/Date of Hearing

: 16.10.2025

घोषणाकीतारीख/Date of Pronouncement:

21.10.2025

आदेश / O R D E R

PER M. BALAGANESH, AM :

This appeal by the assessee is filed against the order of the learned Commissioner of Income Tax (Appeal), NFAC, Delhi, (in short Ld.CIT(A) for the assessment year 2014-15, vide order dated 13.05.2025.

2.0 The only issue to be decided in this appeal is as to whether the Ld.CIT(A) was justified in confirming the disallowance made on account of software expenses in the sum of Rs.60,94,421/- in the facts and circumstances of the instant case.

3.0 We have heard the rival submissions in the light of material available on records. The assessee company is engaged in providing management consultancy services. The return of income for the AY-2014-15 was filed by the assessee company on 19.09.2014 declaring total income of Rs.41,74,130/-. During the previous year relevant to AY-2014-15, the Ld.AO noticed from the profit and loss account of the assessee that a sum of Rs.60,94,421/- stood debited as 'software maintenance expenses'. This was considered to be very high when compared to the figure of Rs.5,87,419/- in earlier year. The Ld.AO noticed that it's hardware comprise of only general computers and software cost is much more than hardware. In order to verify the genuineness of the said expenditure, the assessee was asked to produce the details of software maintenance expenses. In response, the assessee submitted that the supporting documents were damaged during the Chennai floods that occurred during December-2015. The Ld.AO, for want of proof, disallowed the software maintenance expenses of Rs.60,94,421/- in the assessment. Before the Ld.CIT(A), the

assessee submitted that their requisite details could not be filed before the Ld.AO due to destruction of certain office records by the Chennai floods. The assessee had entered into management consultancy agreement to extend consultancy service to HR, Legal, IT, Public Relations, Staff planning, Financial restructure and funding on behalf of group companies including Tamil Nadu Petroproducts Limited (TPL). This agreement was entered on 01.03.2013. The assessee filed a copy of management consultancy agreement entered with TPL. The entire explanation and documentary evidences were furnished by the assessee as additional evidences and those additional evidences were confirmed by the Ld.CIT(A) and a remand report was called from the Ld.AO. It was submitted that one of the activities was to frame up and finalize the IT Services such as implementation of SAP/ERP and improving the usage of the IT Services including hardware and software of the group companies. TPL had entered into a contract with Cherrytec for providing software services required by Tamilnadu Petroproducts Ltd which is evidenced by 'Information Technology and Service Agreement dated 24/09/2010 between Tamilnadu Petroproducts Ltd and Cherrytec. In this connection, the assessee was authorized by TPL to act as "Interface for the transition" for High level of Scope of Work for the IT services work between TPL and Cherrytec Intellsolve Limited (Cherrytec) vide Authorization Letter dated 23.04.2013 issued by TPL. Copy of this letter

was also filed along with the submissions before the Ld.CIT(A) and before the Ld.AO in the remand proceedings.

4.0. Cherrytec offered IT Services to TPL viz. Application development, Application Maintenance (both ERP-SAP and home grown applications), Data Centre Management, Network Management and IT Security/Vendor Management to TPL. vide agreement during June 2010 for a sum of Rs.6,33,300/-month (exclusive of taxes) and a contract was signed between Cherrytec and TPL for a period of 5 years from September 2010.

5.0. As the IT services work executed by Cherrytec was not at all satisfactory, assessee informed TPL to terminate the services of Cherrytec (during April 2013) by paying six months maintenance charges to them as per the Agreement. There is a termination clause (Clause No.21) that either party may terminate the agreement with a time limit of 6 months period. As TPL terminated the agreement, it had to pay 6 months maintenance charges to Cherrytec. As per the instructions by assessee, TPL paid the six months maintenance charges to Cherrytec on receiving the invoices from them. TPL raised invoices for the termination charges paid by them amounting to Rs.60.89 lakhs on assessee since assessee instructed TPL to terminate the contract. TPL raised the following invoices on the assessee as under :-

- i. Invoice dated 01/03/2014 - Rs 35,20,464
- ii. Invoice dated 01/03/2014 - Rs 33,22,118

Total	Rs.68,42,582

6.0. The above amount consisted of Professional charges Rs.60,89,872/- and Service tax to the extent of Rs.7,52,710/-. The assessee had to reimburse TPL the amount of 9,872/- along with an amount of Rs.4549/- payable to TPL amounting in all to Rs.60,94,421/-. The assessee paid Rs.39 lakhs to TPL before 31/03/2014 and the balance to be paid in the subsequent financial years. The assessee claimed the above expenditure Rs.60,94,421/- as expenditure Incidental to its business for the Asst year 2014-15 u/s.37(1) of the IT Act 1961.

7.0. The assessee had to take this step since the performance of work of Cherrytec was very poor and involved considerable damage in terms of delay in implementation of the IT services that were crucial for the overall performance and growth of the Company and felt that incurring the six months maintenance charges was a better option than continuing with Cherrytec.

8.0. The authorization letter dated 24.03.2013 authorized the assessee to supervise the activities of TPL. In terms of the advice of the assessee, TPL terminated the contract with Cherrytec Solutions and paid them an amount of Rs.68,42,582/- which they in turn invoiced on the assessee by means of two invoices dated 01.03.2024.

9.0. The assessee claimed the above expenditure as incidental to its business under the provisions of section 37 (1) of the IT Act for the following reasons namely:

- i. It is the responsibility of the assessee to advise TPL regarding their software requirements and any expenditure on such requirements incurred by TPL is according to the advice of the assessee ;
- ii. The payment for the cancellation of the agreement between TPL and Cherrytec is on the advice of the assessee and any payments made by TPL to Cherrytec towards 6 months maintenance charges has to be borne by the assessee. In this context, the Invoices were rightly raised by TPL on the assessee towards the payment made by TPL to Cherrytec.
- iii. In this context ,only the assessee made a payment of Rs. 39 lakhs to TPL towards reimbursement of professional charges paid by TPL Ltd to Cherrytec leaving the balance of nearly 22 lakhs to be reimbursed in the subsequent assessment years.

10.0. However the assessing officer points out in the remand report dated 14/01/2019 to the effect that the assessee has not explained the reason as to why the expenses of TPL on software services have to be reimbursed by the assessee. Further the assessing officer claims that there is no justification what so ever for the huge claim in this year compared to the meagre claim under the same head in the last

assessment year. It is also not known why TPL should incur software expenses when it is mainly an Industrial manufacturing company. There is a difference of Rs.7,52,709/- between the invoices of TPL and the amount claimed by the assessee in the returns for which there is no obvious explanation.

11.0. In connection with the above, the assessee submits that the agreement between TPL and the assessee was executed on 01/03/2013 and was in operation for the first year relating to the financial year 2013-14 and in the said circumstances the expenses incurred for the financial year 2013-14 are bound to be higher when compared to the expenses incurred under the same head for the previous financial year 2012-13. The assessee further submits that the amount of Rs.7,52,709/- relates to the service tax on the value of the invoices. TPL had the technology service agreement with Cherrytec from 24/09/2010 and they required extensive software services in their production activities. Cherrytec was providing services from three years prior to the financial year 2013-14 when appellant was authorized to supervise the software services provided by Cherrytec.

12.0 The following documents were submitted in support of the above averments by the assessee:-

- i. Statement showing how the software expenses have been arrived at Rs.60,94,421/-
- ii. Information Technology Service Agreement dated 24/09/2010 between TPL and Cherrytec.

- iii. Copy of the letter dated 23/04/2013 from TPL addressed to Cherrytec regarding authorization for assessee, CIO Director to act as interface for the transition
- iv. Letter dated 29/04/2013 from TPL to Cherrytec terminating the services agreement vide Page 72 Invoice raised by Cherrytec on TPL and invoices of TPL raised on assessee and intimation regarding payment by assessee.

13.0. The Ld.CIT(A) however did not heed to the aforesaid contentions of the assessee and upheld the disallowance made by the Ld.AO by observing as under :-

6.3.3 During the course of appellate proceedings, the appellant has submitted two invoices dated 01.03.20214 for a sum of Rs.35,20,646/- and Rs.33,22,118/- totaling to Rs.68,42,582/- whereas the amount claimed for the whole year on this ground by the appellant was Rs.60,94,421/-. The appellant has not provided reconciliation in respect of the same. It is also pertinent to note that during the assessment proceedings the appellant stated that the documents was destroyed in the flood which is contrary to admission during the appellate proceedings.

The appellant has also submitted Information Technology Service Agreement as documentary evidence in support of software expenses. On perusal of the said Agreement it is seen that the agreement was entered between Cherrytec Intellsolve Limited and Tamilnadu Petroproducts Limited which is not the appellant.

The appellant has also stated that on sudden termination of contract without proper notice period, the appellant has to pay six month's bill amounts as settlement. In such a case, the amount the appellant has to pay as per the contract is Rs.28,99,800/-, however, the amount in question is Rs.60,94,421/-.

Further, the appellant submitted that the appellant has requested the Tamilnadu Petroproducts Limited to pay the amount to Cherrytec Solution and raise the debit note on the appellant. If so, the appellant should have produced the debit note, which would be readily available with Tamilnadu Petroproducts, during the assessment proceedings. This sharp contradiction is highly doubtful and appears to be 'after-thought'.

14.0. Considering the management consultancy agreement between assessee and TPL ; considering the information technology services agreement between Cherrytec and TPL ; considering the clause-21 containing termination of information technology services agreement and considering the financial statement of the TPL where they had not claimed the sum of Rs.60,94,421/- as deduction in their return, we find from the above narration of facts taken with the scope of work of each party of the agreement in their respective agreement, that Cherrytec was not rendering satisfactory services to TPL which prompted the assessee to terminate the agreement of retention of services to TPL in collaboration with Cherrytec. Further, in view of clause 21 of Information technology services agreement entered into between Cherrytec and TPL, wherein Cherrytec shall have to be compensated by six months running expenses for them in the event of termination for non-compliance to the terms, the assessee requested TPL to make payment of six month expenses to Cherrytec as assessee at that relevant time did not have sufficient funds in its kitty. TPL having made the payment to

Cherrytec, raised two debit notices dated 01.03.2014 on the assessee which was duly paid / reimbursed by the assessee to TPL in the year under consideration and remaining in subsequent year. This goes to prove that the payment of software maintenance expenses by way of reimbursement to TPL is inextricably linked with the business of the assessee and is part of discharge of contractual obligation entered into with TPL. The assessee pursuant to the management consultancy services is duty bound to render services to TPL with the assistance of Cherrytec. Since the call for termination had been taken in the instant case by the assessee, as per the contractual obligation, Cherrytec had to be paid for six months running expenses, the assessee had incurred the same during the year. Hence, this becomes expenditure incurred wholly and exclusively for the purpose of business of the assessee and hence allowable as deduction u/s 37(1) of the Act.

15.0. With regard to difference pointed out by the Ld.CIT(A) in para 6.3.3 of his order, the assessee had duly furnished the reconciliation explaining the difference representing the amount of service tax in the sum of Rs.7,52,709/- and it was also confirmed that the service tax portion was not claimed as deduction at all by the assessee. With regard to incurring lesser expenditure in earlier years on account of software maintenance, we hold that during the year, the assessee had

to incur this increased expenditure pursuant to termination of agreement which did not prevail in earlier years. Hence, the expenditure incurred during the year is not even comparable with the earlier year. All the objections raised by the Ld.CIT(A) have been duly met and accordingly, we hold that assessee would be eligible for deduction of Rs.60,94,421/- on account of software management expenses in the year under consideration. Hence the grounds raised by the assessee in this regard are hereby allowed.

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

Order pronounced in the court 21st ,October, 2025 at Chennai.

Sd/-

(एसएसविश्वनेत्ररवि)

(S.S. VISWANETHRA RAVI)

न्यायिकसदस्य/JUDICIAL MEMBER

Sd/-

(एम.बालगणेश)

(M. BALAGANESH)

लेखासदस्य/ACCOUNTANT MEMBER

चेन्नई/Chennai, दिनांक/Dated 21st , October, 2025

KB/-

आदेशकीप्रतिलिपिअग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT– Chennai/Coimbatore/Madurai/Salem
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF