

आयकर अपीलिय अधिकरण, 'सी' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

"C" BENCH, CHENNAI

श्री बी.आर. बास्करन, लेखा सदस्य एवं श्री विकास अवस्थी, न्यायिक सदस्य केसमक्ष

BEFORE SHRI B.R. BASKARAN, ACCOUNTANT MEMBER AND  
SHRI VIKAS AWASTHY, JUDICIAL MEMBER

आयकर अपील सं./ITA No.1055/Mds/2014

निर्धारण वर्ष /Assessment Year : 2008-09

M/s T&B International Pvt. Ltd.,  
22, Nungambakkam High Road,  
Chennai - 600 034.

v. The Assistant Commissioner of  
Income Tax,  
Company Circle III(2),  
Chennai - 600 034.

PAN : AAAC 6100 D

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri M. Karunakaran, Advocate

प्रत्यर्थी की ओर से/Respondent by : Shri A.V. Sreekanth, JCIT

सुनवाई की तारीख/Date of Hearing : 21.01.2015

घोषणा की तारीख/Date of Pronouncement : 21.02.2015

### **आदेश / O R D E R**

**PER B.R. BASKARAN, ACCOUNTANT MEMBER:**

The assessee has filed this appeal challenging the order dated 31.12.2013, passed by Ld. Commissioner of Income Tax (Appeals)-III, Chennai and it relates to assessment year 2008-09.

The assessee is aggrieved by the decision of Ld. CIT(Appeals) with regard to apportionment of common expenses between two business activities carried on by it.

2. The Ld.counsel appearing for the assessee submitted that the assessee is carrying on two types of business activities, namely, web portal business and manufacturing and sale of ATM machines. He submitted that, during the year under consideration, the assessee did not start the business of manufacturing and sale of ATM machines. Hence, during the course of assessment proceedings, the assessee agreed for apportionment of common expenses at the rate of 1/3<sup>rd</sup> towards the web portal business and 2/3<sup>rd</sup> towards ATM business and accordingly, it agreed for disallowance of expenses relating to ATM business. However, the Assessing Officer has considered following expenses also as common expenditure and accordingly disallowed 2/3<sup>rd</sup> of the same:-

a) Manufacturing expenses	:	₹	5,60,403
b) Repairs & Maintenance	:	₹	7,23,779
c) Marketing expenses	:	₹	1,12,060
d) Depreciation	:	₹	25,93,943
e) Employee expenses (Part)	:	₹	1,05,24,637

3. The Ld. CIT(Appeals) has confirmed the disallowance on the reasoning that the assessee had agreed to the addition. The Ld.counsel submitted that the assessee had agreed for apportionment of common expenses and disallowance of expenses relating to ATM business. However, the above said expenses cannot be considered as common expenses and hence, the acceptance of the assessee would not cover the above expenses.

The Ld.counsel submitted that the manufacturing expenses, repairs and maintenance expenses and marketing expenses were exclusively incurred for the purpose of web portal business. He further submitted that the depreciation relating to assets pertaining to web portal business can be exactly determined. He submitted that the employee expenses can also be determined in similar manner and hence the ratio of 1:3 need not be applied for depreciation and employee expenses. Accordingly, he prayed that this issue can be restored to the file of the Assessing Officer for examining the same afresh.

4. The Ld. D.R. did not object for the factual details submitted by the Ld.counsel.

5. Having heard the rival contentions, we are of the view that there is a merit in the submissions of Ld.counsel. As contended by him, the acceptance of the assessee before the Assessing Officer pertained to common expenses which he cannot identify with a particular business of the assessee. The contention of the assessee is that the manufacturing expenses, repairs and maintenance expenses and marketing expenses are fully related to web portal business. With regard to depreciation and employee expenses, the contention of the Ld.counsel is that there is no need

to make apportionment but related expenses can be ascertained. We agree with the said submissions of the Ld.counsel. However, the claim of the assessee requires examination at the end of the Assessing Officer. Accordingly, we set aside the order of the Ld. CIT(Appeals) on this issue and restore the matter to the file of the Assessing Officer with the direction to examine this issue afresh by duly considering the information and expenses of the assessee and take appropriate decision in accordance with law after giving reasonable opportunity of being heard to the assessee.

6. In the result, the appeal filed by the assessee is treated as allowed for statistical purposes.

Order pronounced in the open court after conclusion of hearing on the 21<sup>st</sup> day of January, 2015 at Chennai.

Sd/- (विकास अवस्थी) (Vikas Awasthy) न्यायिक सदस्य/Judicial Member	sd/- (बी.आर. बास्करन) (B.R. Baskaran) लेखा सदस्य/Accountant Member
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चेन्नई/Chennai,  
दिनांक/Dated, the 21<sup>st</sup> January, 2015.

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)-III, Chennai-34
4. आयकर आयुक्त/CIT, Chennai-III, Chennai-34
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.