

**IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH : BANGALORE**

**BEFORE SMT. P. MADHAVI DEVI, JUDICIAL MEMBER
and
SHRI ABRAHAM P GEORGE, ACCOUNTANT MEMBER**

**ITA No.1310/Bang/2013
(Assessment year: 2009-10)**

Joint Commissioner of Income-tax(LTU)
Bangalore. ... Appellant

Vs.

M/s.Dell India Pvt. Ltd.
Divyashree Chambers, Ground floor,
12/2A, Challaghatta Village,
Bangalore-560071. ... Respondent
PAN:AABCD 8893 L

Appellant by: Dr.K.Shankar Prasad, JCIT(DR).
Respondent by: Shri K.R.Vasudevan, Advocate.

Date of hearing : 25/02/2015.
Date of pronouncement: 25/02/2015.

O R D E R

Per Smt. P.MADHAVI DEVI, JM:

In this appeal, the Revenue is aggrieved by the order of the CIT(A),LTU, Bangalore, dated 17/06/2013 in deleting the addition made by the Assessing Officer (AO) u/s 115WB(2)(f) of the Income-tax Act, 1961 [hereinafter referred to as 'the Act' for short].

2. Brief facts of the case are that the assessee-company which is engaged in the business of manufacture and trading of

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computer systems filed its return of income for assessment year 2009-10 on 30/9/2009 declaring a total value of fringe benefits of Rs.8,16,22,914/-. During the assessment proceedings u/s 115WE(3) of the Act, the AO observed that the assessee has claimed transportation charges of Rs.50,19,592/- to be exempt from fringe benefit tax. The AO, however, held it to be in the nature of conveyance which is taxable u/s 115WB(2)(f) of the Act as fringe benefit. He, therefore, brought 20% of such expenses i.e. Rs.10,03,980/- to tax. Aggrieved, the assessee preferred an appeal before the CIT(A) who deleted the disallowance and the revenue is in appeal before us against the relief given by the CIT(A).

3. At the time of hearing, the learned Departmental Representative supported the order of the AO while the learned counsel for the assessee placed reliance upon the order of the CIT(A). In addition to the above, the learned counsel for the assessee has also brought to our notice that the tax effect in this case is only Rs.3,01,175/- which is less than the monetary limit of Rs.4 lakhs fixed by the CBDT for filing of appeals before the Tribunal and is therefore liable to be dismissed as not maintainable. He placed reliance upon the decision of the Hon'ble Karnataka High Court in the case of *CIT Vs. Ranka & Ranka* (2012)(206 ITR 322; Hon'ble Bombay High Court in the case of *CIT vs. Smt.Vijaya V.Kavekar* (2013) 350 ITR 237 and Hon'ble Gujarat High Court in the case of *CIT vs. Sureshchandra*

Durgaprasad Khatod (HUF) (2014) 363 ITR 556 in support of the above contention.

4. Having regard to the rival contentions and the material on record, we find that the taxable value of the transportation charges with regard to fringe benefit is Rs.10,03,918/- and tax on the same at the rate of 30% is Rs.3,01,175/- which is less than the monetary limit of Rs.4 lakhs fixed by the CBDT. In view of the same, we dismiss the revenue's appeal on account of low tax effect.

Pronounced in the open court on 25th February, 2015.

sd/-
(Abraham P George)
ACCOUNTANT MEMBER

sd/-
(Smt. P. Madhavi Devi)
JUDICIAL MEMBER

eksrinivasulu

Copy to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT, Bangalore.
6. Guard file

By order

Assistant Registrar
Income-tax Appellate Tribunal
Bangalore