

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH 'G' : NEW DELHI)**

**BEFORE SHRI KULDIP SINGH, JUDICIAL MEMBER
and
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER**

**ITA No.5318/Del./2015
(ASSESSMENT YEAR : 2010-11)**

ACIT, Central Circle 26, vs. M/s. True Developers Pvt. Ltd.,
New Delhi. 1st Floor, Pinnacle Building,
International Tech Park,
Tara Mani Road,
Chennai (Tamil Nadu).

(PAN : AACCT4871F)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri Gaurav Goel, CA
REVENUE BY : Shri S.S. Rana, CIT DR

Date of Hearing : 24.09.2018

Date of Order : 03.10.2018

ORDER

PER KULDIP SINGH, JUDICIAL MEMBER :

The appellant, Assistant Commissioner of Income-tax, Central Circle 26, New Delhi (hereinafter referred to as 'the Revenue') by filing the present appeal, sought to set aside the impugned order dated 05.06.2015 passed by Ld. CIT (Appeals)-29, New Delhi qua the assessment year 2010-11 on the grounds inter alia that :-

“1. On the facts and in the circumstance of the case and in law, the Ld. CIT(A) erred in deleting the disallowance being 50% of the "General Management Fees" amounting to Rs.70,65,000/- paid to M/s. Ascendas Services (India) Pvt. Ltd by the assessee company.

2 On the facts and in the circumstance of the case and in law, the CIT(A) has erred in deleting the above addition without appreciating the fact that the onus is on the assessee to establish the genuineness of business expenses u/s 37(1) and in this case the assessee was not able to justify the huge payments made to M/s Ascendas Services (India) Pvt. Ltd.

3 That the grounds of appeal are without prejudice to each other.”

2. Briefly stated the facts necessary for adjudication of the controversy at hand are : Assessing Officer noticed that during the year under assessment, the assessee has debited an amount of Rs.1,41,29,993/- on account of General Management Fees paid to Ascendas Services (India) Pvt. Ltd.. It is the case of the assessee that since it has no skilled and management personnel of high caliber, it took the management services from Ascendas Services (India) Pvt. Ltd. for providing overall management leadership and advice to the owner, supervising operations and other company matters. AO, declining the contentions raised by the assessee, proceeded to conclude that since no business activities have been carried out by the assessee as per profit & loss account, during the year under assessment, and was having only interest income there

was no need for any skilled manpower and thereby disallowed 50% of the General Management Fees amounting to Rs.70,65,000/- and added the same back to the income of the assessee.

3. Assessee carried the matter by way of appeal before the Id. CIT (A) who has deleted the addition made by the AO by allowing the appeal. Feeling aggrieved, the Revenue has come up before the Tribunal by way of filing the present appeal.

4. We have heard the Id. Authorized Representatives of the parties to the appeal, gone through the documents relied upon and orders passed by the revenue authorities below in the light of the facts and circumstances of the case.

5. Undisputedly, the assessee is developing a Special Economic Zone (SEZ) project at Coimbatore for which it has claimed to have availed the services of Ascendas Services (India) Pvt. Ltd.. It is also not in dispute that Ascendas Services (India) Pvt. Ltd. is a Singapore Government company having specialized in erecting IT Parks, industrial and logistic parks, etc.

6. From the perusal of impugned order passed by the Id. CIT (A), it goes to prove that the evidence was there on record to prove that 8 skilled personnel were at the disposal of the assessee to look after the work of the assessee's company for SEZ in Coimbatore. Furthermore, from the evidence brought on record by the assessee,

CIT (A) noticed that Ascendas Services (India) Pvt. Ltd. team invited tenders filed by M/s. Ahluwalia Contractors India P. Ltd. and L & W Construction Private Limited to develop total area of 893,447.99 sq.ft. and 872,005.84 sq.ft respectively. The entire tender record has been perused and scrutinized by the Id. CIT (A) having contract of Rs.185 crores.

7. Moreover, AO has not disputed the functions performed by the skilled personnel hired by the assessee nor has disputed documents relied upon by the assessee as well as books of accounts rather proceeded to disallow 50% of the expenses merely on conjectures and surmises. Moreover, Revenue authorities are not permitted to complete the assessment by sitting on the arm chair of businessman/assessee and it is for the assessee to decide which of the services are necessary for carrying out its business activities.

8. In view of what has been discussed above, finding no illegality or perversity in the impugned order passed by the Id. CIT (A), present appeal filed by the Revenue is hereby dismissed.

Order pronounced in open court on this 3rd day of October, 2018.

**Sd/-
(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER**

**sd/-
(KULDIP SINGH)
JUDICIAL MEMBER**

**Dated the 3rd day of October, 2018
TS**

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT(A)-29, New Delhi
- 5.CIT(ITAT), New Delhi.

AR, ITAT
NEW DELHI.