

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“B” BENCH: BANGALORE**

**BEFORE SHRI GEORGE GEORGE K., JUDICIAL MEMBER  
AND  
SHRI B.R. BASKARAN, ACCOUNTANT MEMBER**

ITA No.104/Bang/2020
Assessment Year: 2015-16

M/s. IDC Centre for Consultancy and Research Private Ltd. No.23 & 24 Ground Floor AMR Tech Park 2-B, Hongasandra Hosur Main Road Bangalore <b>PAN NO : BLRCO5726A</b>	<b>Vs.</b>	Deputy Commissioner of Income-tax Circle-3(1)(1) Bangalore
<b>APPELLANT</b>		<b>RESPONDENT</b>

<b>Appellant by</b>	:	Shri M.P. Lohia, A.R.
<b>Respondent by</b>	:	Sri Priyadarshi Mishra, D.R.

Date of Hearing	:	02.11.2020
Date of Pronouncement	:	01.12.2020

**ORDER**

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

The assessee has filed this appeal challenging the order dated 22-11-2019 passed by Ld CIT(A)-3, Bengaluru and it relates to the assessment year 2015-16. The assessee is aggrieved by the decision of Ld CIT(A) in not admitting additional evidences and in confirming the disallowance of management fees of Rs.5,05,83,087/- paid by the assessee to its group concerns.

2. We heard the parties and perused the record. The assessee is engaged in the business of providing market intelligence & advisory

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services to information technology, telecommunication industries and consumer technology markets. During the year under consideration, the assessee had paid management fees to two its group concerns, viz., M/s IDC Research Inc., USA and M/s IDC Asia/Pacific Pte Ltd aggregating to Rs.5,05,83,087/-. The AO asked the assessee to furnish details of expenses and also copies of agreements, invoices and details of work done/services rendered by the above said two companies. From the details furnished by the assessee, the AO noticed following deficiencies:-

- *The agreements do not provide the basis of charging the fees for rendering services or the manner in which cost is to be allocated.*
- *The appellant has failed to provide the specific details of work done or services rendered by the related concerns from abroad.*
- *The agreements or invoices do not throw any light on the details of actual services provided by these companies or the basis on which payment had been made. The nature of services indicated in the invoices was very generic iz `International Allocation Charge Back-Rs. 57,00,547/-', 'Group Management Fee-Rs. 7,20,426/- etc.*
- *Invoice from IDC Inc reveals that management fee was charged for one year of which only six months related to the year under consideration. Common invoice for period 01.10.2013 to 31.03.2014 and for period 01.04.2014 to 20.09.2014 was also raised on 27.06.2014. Thus the amount related to FY 201314 did not pertain to the year under consideration. The invoice for the current year for period up to 20.09.2014 was raised in advance on 27.06.2014 i.e. even before the period for which the services to be rendered was over. This indicated that there was no basis for raising such invoices and the same were being raised as only a device to shift profit from India.*
- *The invoices do not show any details of specific services provided to the appellant company. No material evidence was produced which could show that the appellant had received any actual services for which payment was made.*
- *The yardstick adopted by the related concerns to charge management fee was not known and the appellant could not show that any tangible and substantial commercial benefit was derived by it from such services.*

*The AO also relied upon the decision of Bombay High Court in the case of Umakant B Agrawal vs. DCIT 369 ITR 220 wherein it was held that proof of rendition of services is a sine qua none for allowability of expenditure in hands of the recipient of the services. The AO also relied upon the decisions of ITAT Bangalore in the cases of M/s TaeguTec India Pvt. Ltd. vs. DCIT dated 24.05.2017 in ITA No. T(TP)A No. 1337/Bang/2010, [2017] 83 taxmann.com (Bangalore-Trib.) and M/s. Volvo India (P) Ltd. Vs. CIT(Appeals) (2017) 77 taxmann.com 207 (Bang. – Trib.)”*

Accordingly, the AO took the view that the payment of management fee is nothing but siphoning of profits from India with the intention to avoid payment of tax. Accordingly the AO disallowed the claim of management fee expenditure.

3. Before Ld CIT(A), the assessee sought to file evidences in the form of additional evidences. The Ld CIT(A) took the view that the assessee has been provided sufficient opportunity by the AO, but it is the assessee who has failed to avail the same. Accordingly the Ld CIT(A) refused to admit additional evidences and accordingly confirmed the addition made by the AO.

4. The Ld A.R submitted that the assessee has availed services from its group entities located in USA and Singapore. Before the AO, the assessee has furnished agreements, invoices etc., vide its letter dated 13.11.2017. He submitted that the assessee was pursuing the matter with its group concerns for getting other details. In the mean time, the assessing officer has passed the order on 08<sup>th</sup> of December, 2017. He submitted that the assessee did not get sufficient time to furnish all the details before the AO, since it took considerable time to collate all the details. Further the expenses were incurred by the group concerns located abroad and cross charged to the assessee proportionately. Hence exact details were required to be collected

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from them. Hence the assessee filed details/documents in the form of additional evidences before Ld CIT(A), but the Ld CIT(A) has refused to admit them. The Ld A.R submitted that the assessee would be put in grave difficulties, if the additional evidences are not admitted and examined by the tax authorities. Accordingly, he prayed for admission of the additional evidences and also prayed that the matter may be restored to the file of the AO for examining this issue afresh.

5. We heard Ld D.R and perused the record. We notice that the assessee has furnished last of its submissions before the AO on 13.11.2017, wherein it has furnished copies of agreements, ledger account copy and copies of sample invoices. Admittedly, all the details called for by the AO have not been furnished. According to Ld A.R, it took considerable time for the assessee to collate all the details, since the expenses were incurred by the group concerns located abroad and was cross charged to the assessee by way of apportionment of expenses. It is the submission of Ld A.R that exact details were required to be collected from the group concerns only. However, the assessment order came to be passed on 8<sup>th</sup> of December, 2017. Accordingly, it was submitted that sufficient time was not given to the assessee by the AO to furnish the details.

6. Considering the above said explanation of the assessee, we are of the view that there was reasonable cause for the assessee in not furnishing all the documents before the AO. Accordingly, we are of the view that the additional evidences should be admitted, in the interest of natural justice. In fact, the assessee is furnishing the additional evidences in order to substantiate the expenses claimed by it and the AO has disallowed the expenses for want of evidences only. Hence admission of additional evidences will promote the cause

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of justice. Accordingly, we admit the additional evidences furnished by the assessee. However, the same requires examination at the end of AO.

7. Accordingly, we set aside the order passed by Ld CIT(A) and restore the issue to the file of the AO for examining it afresh by duly considering the additional evidences and/or any other evidence, information and explanations that may be furnished by the assessee. After affording adequate opportunity of being heard, the AO may take appropriate decision in accordance with law.

8. In the result, the appeal of the assessee is treated as allowed for statistical purposes.

Order pronounced in the open court on 1<sup>st</sup> Dec, 2020

**Sd/-**  
**(George George K.)**  
**Judicial Member**

**Sd/-**  
**(B.R. Baskaran)**  
**Accountant Member**

Bangalore,  
Dated 1<sup>st</sup> Dec, 2020.

VG/SPS

**Copy to:**

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

By order

Asst. Registrar, ITAT, Bangalore