

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL, 'A' BENCH, CHENNAI
श्री ए. मोहन अलंकामणी, लेखा सदस्य एवं श्री जी.पवन कुमार, न्यायिक सदस्य के समक्ष
BEFORE SHRI A.MOHAN ALANKAMONY, ACCOUNTANT MEMBER
AND SHRI G.PAVAN KUMAR, JUDICIAL MEMBER

आयकरअपीलसं./I.T.A.Nos.2320 to 2322/Mds/2015

(निर्धारणवर्ष / Assessment Years: 2006-07, 2008-09 & 2009-10)

The Assistant Commissioner of Income Tax, Corporate Circle -4(1) Chennai.	Vs	M/s. Maya Appliance Pvt.Ltd., 2, Boat Club I Avenue, Raja Annamalaipuram, Chennai-600 028.
		PAN: AAACM6280D
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Mr. Shiva Srinivas, JCIT
प्रत्यर्थीकीओरसे/Respondent by	:	Mr. Saroj Kumar Parida, Advocate

सुनवाईकीतारीख/Date of hearing	:	6 th July, 2016
घोषणाकीतारीख /Date of Pronouncement	:	9 th September, 2016

आदेश / ORDER

Per A. Mohan Alankamony, AM:-

These three appeals are filed by the Revenue aggrieved by the common order of the learned Commissioner of Income Tax (Appeals)-8, Chennai dated 08.09.2015 in ITA Nos.127, 128 & 129/2014-15/MP passed under section 115WE(3) r.w.s. 250(6) of the Act.

2. The Revenue has raised several grounds in its appeals, however the crux of the common issue is as follows:-

“The learned Commissioner of Income Tax (Appeals) has erred in deleting the addition of ₹27,12,491/-, ₹79,51,610/- and ₹ 1,21,57,999/-

for the assessment years 2006-07, 2008-09 & 2009-10 respectively made by the learned Assessing Officer under section 115WE(2) of the Act being 'dealer meet expenses'.

3. Brief facts of the case are that the assessee is a private limited company engaged in the business of manufacture of home appliances filed its return of fringe benefits for the relevant assessment years. The cases were taken up for scrutiny and notices under section 115WE(2) were issued to the assessee. Subsequently, the assessments were completed by the learned Assessing Officer for the assessment years 2006-07 , 2008-09 & 2009-10, wherein he levied fringe benefit tax against the expenses incurred on "dealers meeting" and "interest free loans to employees".

4. On appeal, the learned Commissioner of Income Tax (Appeals) dismissed the appeal of the assessee by stating that the assessee had accepted the disallowances in the course of appellate proceedings. However, on appeal before the Tribunal, it was submitted that the assessee has only agreed for the addition against the ground raised with respect to "interest free loans to employees" and not with respect to

the issue of “dealers trip / meeting”. The Tribunal set aside the matter to the file of the learned Commissioner of Income Tax (Appeals) to consider the ground raised by the assessee with respect to levy of fringe benefit tax on the expenses incurred towards “dealers meet”.

5. The learned Commissioner of Income Tax (Appeals) after considering the issue in detail came to a conclusion that for the levy of fringe benefit tax there should be employer employee relationship. But in the case of the assessee the expenses incurred was towards dealers meeting and the dealers did not have any employer-employee relationship. Therefore, he directed the learned Assessing Officer to delete the levy of fringe benefit tax. While doing so, he also placed reliance in circular No.8/2005 wherein this aspect was made clear. We do not find any infirmity in the order of the learned Commissioner of Income Tax (Appeals) on this issue. Provisions of section 115WE(1) & (2) makes it clear that fringe benefit means any consideration received towards employment as specified by the statute or any expenses incurred by the employer towards his employees which are

specified in the statute. Hence, it is abundantly clear that for levy fringe benefit tax there should be employer employee relationship. Since the in the case of the assessee expenses were incurred only on the “dealers” of the assessee who are not the employees of the assessee, it is obvious that levy of fringe benefit tax is not warranted. Therefore, we hereby confirm the order of the learned Commissioner of Income Tax (Appeals) on this issue.

6. In the result, all the three appeals of the Revenue are dismissed.

Order pronounced in the open court on the 9th September, 2016

Sd/- (जी.पवन कुमार) (G.Pavan Kumar) न्यायिक सदस्य /Judicial Member	Sd/- (ए. मोहन अलंकामणी) (A.Mohan Alankamony) लेखा सदस्य / Accountant Member
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चेन्नई/Chennai,
दिनांक/Dated 9th September, 2016
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| 1. Appellant | 2. Respondent | 3. आयकर आयुक्त (अपील)/CIT(A) |
| 4. आयकर आयुक्त/CIT | 5. विभागीय प्रतिनिधि/DR | 6. गार्ड फाईल/GF |