IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO. 604 OF 2018

Commissioner of Income Tax (IT)-3
17th Floor, AIR India Building,
Nariman Point, Mumbai-400 021 ... Appellant

Versus

1. M/s. Llyod's Register Quality Assurance Limited, (India Branch Office),
63-64, Kalpataru Square, 6th floor, Kondivita Lane, Off Andheri Kurla Road, Andheri (E),
Mumbai-400 059. ...Respondent
PAN : AAACL 9740K

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Mr.Akhileshwar Sharma with Ms.Shilpa Goel, Advocate for appellant.

Mr.Paras S. Savla, Advocate for respondent.

CORAM : DHIRAJ SINGH THAKUR &
KAMAL KHATA, JJ.

DATE : 13th JANUARY, 2023.

P C :

1. Learned counsel for the respondent states that the tax effect in the present appeal is less than Rs.1 Crore, the same ought to be withdrawn in terms of Circular No.17 of 2019, dated 8th August, 2019 issued by Central Board of Direct Taxes (CBDT). With a view, to support and buttress this fact, it is stated that as per the order

of assessment, dated 28th February 2023, the income reflected in the return filed by the petitioner was Rs.1,30,54,976/-, the Assessing Officer had made a disallowance on account of head 'Office Expenses' to the tune of Rs.1,82,99,007/- and allowed only 5% of the total income on account of head 'Office Expenses' amounting to Rs.15,67,699/-. The income, therefore, was assessed at Rs.29,786,310/-, in the following manner.

Total income as per return of income	:	Rs.1,30,54,976/-
<u>Add:</u> Disallowance as discussed above		
Head Office Expenses	:	Rs.1,82,99,007/-

		Rs.3,13,53,983/-
<u>Less:</u> <u>U/s.44C as discussed above</u> (5% of Adjusted total income)	...	Rs.15,67,699/-
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Total income	...	**Rs.29,786,347/-**
Rounded off	...	**Rs.29,786,310/-**
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2. The matter was carried out till the Tribunal by the assessee, which, by virtue of the order impugned, dated 7th June 2017 held that no disallowance on account of head 'office expenses' ought to have been made at all. The petitioner, therefore, in consequence of

the order of the Tribunal, would get the benefit of the entire amount, which was otherwise claimed under the head ‘office expenses’.

3. In our opinion, in a worst case scenario, assuming the order of the Assessing Officer was not challenged by the assessee in appeal, the following would be the position :

Sr. No.	**Particular**	**Ref.**	**Amount**
A	Disputed Amount as per assessment order (mentioned at para 12, page 20)	A	1,82,99,007
B	Tax @ 40%	A*40%	73,19,609
C	Surcharge @ 2.5%	B*2.5%	1,82,990
D	Tax plus surcharge	B + C	75,02,593
E	Education Cess @ 3%	D* 3%	2,25,078
F	**Tax effect**	**D + E**	**77,27,671**

4. Based upon this, learned counsel for the assessee states that the tax effect, in any case, would be only Rs.77,27,671/- which being less than Rs.1 Crore, would be covered under Circular No.17 of 2019.

5. Be that as it may, the Appeal is accordingly disposed of as involving low tax effect.

6. However, we observe that in case, the Revenue finds for some reason that the Appeal was not supposed to have been withdrawn in the light of the Circular, it would be open to the Revenue to file an application, seeking restoration of the Appeal, to be decided on its own merits. Refund of Court-fees as per rules.

[KAMAL KHATA, J.] **[DHIRAJ SINGH THAKUR, J.]**