2026:MHC:4527

Order QR

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04-11-2026

CORAM

THE HON'BLE DR.JUSTICE ANITA SUMANTH

AND

THE HON'BLE MR.JUSTICE S.KARTHIKEYAN

TCA Nos. 82, 83, 84 & 85 of 2016

CNR:{HCMA010977612016} *CNR:{HCMA010978502016} CNR:{HCMA010979272016} CNR:{HCMA010980302016}*

The Commissioner of Income Tax,
Chennai.

..Appellant(s)
in all appeals

Vs

M/s Mahindra Holidays and Resorts India Ltd.,
Mahindra Towers, II Floor,
17-18, Patullos Road,
Chennai.600 002.

..Respondent(s)
in all appeals

Prayer in TCA No. 82 of 2016 : Appeal filed under Section 260-A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras ‘A’ Bench, Chennai dated 17.10.2012 in ITA No. 1762/Mds/2011.

Prayer in TCA No. 83 of 2016 : Appeal filed under Section 260-A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras ‘A’ Bench, Chennai dated 17.10.2012 in ITA No. 1763/Mds/2011.

Prayer in TCA No. 84 of 2016 : Appeal filed under Section 260-A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras ‘A’ Bench, Chennai dated 17.10.2012 in ITA No. 1614/Mds/2011.

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Prayer in TCA No. 85 of 2016 : Appeal filed under Section 260-A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'A' Bench, Chennai dated 17.10.2012 in ITA No. 1615/Mds/2011.

For Appellant (s) : Mr.D.Prabhu Mukund Arunkumar
Senior Standing Counsel

For Respondent(s) : Mr.R.Vijayaraghavan
For M/s.Subbaraya Aiyar Padmanaban

COMMON JUDGMENT

(Delivered by Dr.Anita Sumanth, J.)

These appeals relate to assessment years (AY) 2006 – 07 and 2007 – 08 challenging common order of Income Tax Appellate Tribunal ('ITAT' / Tribunal) dated 17.10.2012.

2. The questions of law admitted on 17.02.2016 for resolution are as follows:-

> *(i) Whether on the facts and circumstances of the case, the Tribunal was right in holding that the membership fee received from time shareholders amounting to Rs.61,78,71,246/- is to be deleted?*
>
> *(ii) Whether the amount received on account of time share units is to be taxed in the year of receipt or spread over covering the balance duration of tenure of membership even though the method of accounting followed by the assessee is mercantile system? And*
>
> *(iii) Is not the finding of the Tribunal bad especially when the system of accounting followed is mercantile by holding that income had not accrued in the year of receipt?*

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3. Though order dated 17.02.2016 refers to TCA No. 85 of 2016 as well, the issue relating to timeshare does not arise in that appeal and the question that have been raised relate to disallowance under Section 40(a)(ia) of the Act. It appears that these questions are not admitted by oversight. Hence and since Mr.Vijayaraghavan fairly accedes to our suggestion, the following questions are admitted in TCA No. 85 of 2016:-

> *(iv) Whether on the facts and circumstances of the case, the Tribunal was right in holding that for disallowance of expenditure made on purchase of software Section 40(a)(ia) would not apply and therefore the provisions of Sec.194 J was not attracted?*
>
> *(v) Whether the word 'payable' includes the word 'paid' while dealing with Section 40(a)(ia) of the Income Tax Act?*

4. Both Mr.Prabhu appearing for Department and Mr.Vijayaraghavan for assessee / respondent relying on an order passed by this Court in TCA No. 433 of 2013 dated 5.10.2026 submit that first three substantial questions are to be decided in favour of assessee and against the Department following a decision of this Court in *Commissioner of Income-tax – LTU vs. Mahindra Holidays and Resorts (India) Ltd.* [(2026) 186 taxmann.com 146], wherein the identical question had been decided adverse to the Department. The Division Bench has encapsulated the facts at paragraph 18 as follows:

> *"18.The facts of the case is that the assessee company is engaged in the business of providing discount cards to the members on payment of prescribed fees called us membership fees. Being one-time fees and non-refundable*

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valid for specific period from one to thirty years was apportioned over the entire period of their membership. This was not accepted by the Assessing Officer and the entire amount collected as membership fees in the accounting year was treated as receipt of thirty years. The Assessee Company preferred appeal before the Commissioner of Income-Tax (Appeals). The Appellate Authority allowed the assessee appeal and directed the Assessing Officer to follow the method of accounting regularly adopted by the assessee. The order of the Appellate Authority was challenged by the Revenue before the Tribunal. The said appeal was dismissed by the Tribunal confirmed the order of the Appellate Authority, Thereafter, when this matter came up for consideration before the Gujarat High Court in Winner Business Link (supra), one of the substantial questions of law framed was:-

> *Whether the Appellate Tribunal was right in law and on facts in accepting the method of accounting followed by the assessee ignoring the fact that during the regular assessment proceedings for A.Y.1997-98, the method of accounting followed by the asseessee was rejected by the Assessing Officer?"*

5. Following the ratio of various Benches including Gujarat High Court in *CIT vs. Winner Business Link (P) Ltd.* [(2015) 55 taxmann.com 468], that was upheld by the Hon'ble Supreme Court on 03.10.2026, the issue was answered against the Department. Hence, the substantial questions (i) to (iii) are answered in favour of the assessee.

6. Coming to substantial question (iv), the issue is covered by a decision of the Supreme Court in *Palam Gas Services v Commissioner of Income-Tax* [(2017) 18 taxmann.com 43]. Hence substantial question (iv) is answered in favour of the assessee and adverse to the Department.

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7. As far as question (v) is concerned, though the legal issue has been decided in favour of the Revenue, the issue becomes academic in this case.

8. This Tax Case (Appeal) stands disposed in terms of this order. No costs.

(A.S.M, J.) (S.K, J.)
04-11-2026

Index: Yes/No
Speaking order
Neutral Citation: Yes

ssm

To

1. The Income Tax Appellate Tribunal, Madras ‘A’ Bench, Chennai.

2. The Commissioner of Income Tax, Chennai.

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