

**आयकर अपीलीय अधिकरण, मुंबई "ई" खंडपीठ मे**  
**Income-tax Appellate Tribunal -"E" Bench Mumbai**  
सर्वश्री राजेन्द्र, लेखा सदस्य एवं अमरजीत सिंह, न्यायिक सदस्य  
**Before S/Sh.Rajendra, Accountant Member and Amarjit Singh, Judicial Member**  
आयकर अपील सं./I.T.A./4321/Mum/2012, **निर्धारण वर्ष** /Assessment Year: 2006-07

M/s. Trimurti Polymers C/o., M/s. Mitesh Mehta & Associates 432, Lamington Road, Opera House Mumbai-400 006. <b>PAN:AABFT 5080 G</b>	Vs.	ACIT. Range-17(3) Mumbai.
--	-----	------------------------------

(अपीलार्थी /Appellant)

(प्रत्यर्थी / Respondent)

राजस्व की ओर से / **Revenue by:** Dr.A.K. Nayak-CIT-DR

अपीलार्थी की ओर से /**Assessee by:** None

सुनवाई की तारीख / **Date of Hearing:** 23/03/2017

घोषणा की तारीख / **Date of Pronouncement:** 31.03.2017

**लेखा सदस्य राजेन्द्र के अनुसार/ PER RAJENDRA, AM-**

Challenging the order dated 9/04/2012, of the CIT (A)-19,Mumbai the assessee has filed the present appeal.Assessee-firm,engaged in the business of manufacturing of plastic hangers,filed its return of income on 30.10.2006, declaring income of Rs.1.31crores.The Assessing Officer(AO)completed the assessment u/s.143(3)of the Act,on 30.12.2008,determining its income at Rs.1.41crores.

2. Effective ground of appeal is about confirming the addition of Rs.9.58 lakhs under section 40(a)(ia) of the Act. During the assessment proceedings, the AO found that as per the audit report for Unit number-I transport charges, amounting Rs.8.66 lakhs and professional fees of Rs.33,672/- had been credited/paid to various parties, that tax was not deducted at source, that same was not paid on or before specified dates.He further found that in case of unit – II, the assessee had not deducted taxes for transport charges or the professional charges of Rs.90,780/-and Rs.22,448/-respectively. Invoking the provisions of section 40(a)(ia),the AO disallowed the amounts of transportation charges and professional charges for both the units.

3. Aggrieved by the order of the AO, the assessee preferred an appeal before the First Appellate Authority (FAA). Before him, it was argued that payments were part of the reimbursement expenses incurred on behalf of the assessee, that taxes could be directed only if service charges were received, that provisions of section 40(a)(ia) were applicable for Rs.2,915/-only and not for Rs. 9.85 lakhs. It filed further details during the appellate proceedings. After considering the same, the FAA held that the tax audit report clearly mentioned that assessee had not deducted tax at source on the amount in dispute, that out of the total expenses of Rs.9.58 lakhs an amount of Rs.3.79 lakhs was on account of miscellaneous expenses, that the assessee was claiming the same under the head, hamali charges, that the total amount on account of freight charges was Rs.5.78 lakhs, that the assessee had not shown as to how it was reimbursement, that the perusal of simple bills revealed that same were not reimbursement but were freight charges, that the provisions of section 194C of the Act were applicable to the facts of the case. He finally held that the assessee had not provided details of hamali charges of Rs.3.79 lakhs, that it was supposed to deduct tax at source, that the AO had rightly made a disallowance of Rs.10.13 lakhs under section 40(a)(ia) of the Act.

4. As stated earlier, none appeared before us during the course of hearing. The Departmental Representative supported the order of the FAA.

5. We find that the FAA has given a categorical finding of fact that amounts in dispute were not reimbursement, that provisions of section 194C were applicable to the payments made under the head freight charges, that no evidences were produced with regard to hamali charges. Nothing was brought on record before us to controvert the findings given by the FAA. So, confirming the same we decide the effective ground of appeal against the assessee.

As a result appeal filed by the assessee stands dismissed.

फलतः निर्धारिती द्वारा दाखिल की गई अपील नामंजूर की जाती है.

Order pronounced in the open court on 31<sup>st</sup> March , 2017.  
आदेश की घोषणा खुले न्यायालय में दिनांक 31 मार्च, 2017 को की गई।

**Sd/-**

(अमरजीत सिंह / Amarjit Singh )

न्यायिक सदस्य / **JUDICIAL MEMBER**

मुंबई Mumbai; दिनांक/Dated : 31.03.2017.

Jv.Sr.PS.

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

1.Appellant /अपीलार्थी

2. Respondent /प्रत्यर्थी

3.The concerned CIT(A)/संबद्ध अपीलीय आयकर आयुक्त, 4.The concerned CIT /संबद्ध आयकर आयुक्त

5.DR “ ” Bench, ITAT, Mumbai /विभागीय प्रतिनिधि, खंडपीठ,आ.अ.न्याया.मुंबई

6.Guard File/गार्ड फाईल

सत्यापित प्रति //True Copy//

आदेशानुसार/ **BY ORDER,**

उप/सहायक पंजीकार **Dy./Asst. Registrar**

आयकर अपीलीय अधिकरण, मुंबई /**ITAT, Mumbai.**