

आयकर अपीलिय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES, JAIPUR

श्री भागचन्द, लेखा सदस्य एवं श्री कुल भारत, न्यायिक सदस्य के समक्ष
BEFORE: SHRI BHAGCHAND, AM AND SHRI KUL BHARAT, JM

आयकर अपील सं./ITA No. 892/JP/2016
निर्धारण वर्ष/Assessment Year : 2012-13.

The Dy. Commissioner of Income-Tax, (TDS), Jaipur.	बनाम Vs.	M/s National Society for Engineering Research & Development, Shree Ram Ki Nangal, Opp. EPIP, Tonk Road, Jaipur.
स्थायी लेखा सं./जीआईआर सं./PAN No. JDHN01255C		
अपीलार्थी/ Appellant		प्रत्यर्थी/ Respondent

राजस्व की ओर से/ Revenue by: Shri Varinder Mehta (CIT)

निर्धारिती की ओर से/ Assessee by: Shri Manish Aggarwal (CA)

सुनवाई की तारीख/ Date of Hearing : 11.04.2017.

घोषणा की तारीख/ Date of Pronouncement : 17 /04/2017.

आदेश / ORDER

PER SHRI KUL BHARAT, JM.

This appeal by the Revenue is directed against the order of Id. CIT (A)-III, Jaipur, Rajasthan, dated 27.07.2016 pertaining to A.Y. 2012-13. The Revenue has raised the following grounds of appeal :-

- "1. On the facts and in the circumstances of the case, the Id. CIT(A) has erred on facts and in law in holding that the assessee is not required to deduct TDS u/s 1941 of the IT Act, 1961 on payment to RIICO on account of lease rent.
2. Further, the Id. CIT(A) has erred on facts and in law in relying on the decision in the case of M/s Gupta Fabtex Pvt. Ltd. vide ITA No. 647 & 648/JP/2013, as, the department has not accepted that decision on merits, however, keeping in view the tax effect as below the prescribed limit no further appeal has filed."

2. Briefly stated the facts are that the Assessing Officer carried out a spot verification on 31/10/2012 for the purpose of TDS verification at the office premises of the assessee. On verification of the accounts of the society it was noticed by the Assessing Officer that the assessee did not deduct tax on the amount paid to RIICO. Therefore, he treated the assessee in default and computed tax liability and interest thereon u/s 201(1) and 201(1A) of the Act.

Aggrieved by this, the assessee preferred an appeal before Id. CIT(A), who after considering the submissions partly allowed the appeal. Thereby, the demand raised u/s 201(1) and section 201(1A) of the Act was deleted. Now, the revenue is in appeal.

3. At the outset, the Id. Counsel for the assessee submitted that the issue is covered in favour of the assessee by the decision of the Hon'ble Tribunal rendered in the case of M/s Tijaria Polypipes Ltd. Vs. DCIT in ITA No. 14 & 22/JP/2014 dated 30/05/2016 and in the case of M/s Gupta Fabtex Pvt. Ltd. vs. DCIT in ITA No. 647 & 648/JP/2013 dated 16/12/2015. The Id. Counsel for the assessee also placed reliance on the circular issued by the Central Board of Direct Taxes No. 35/2016 dated 13/10/2016 in support of the contention that no tax is required to be deducted on such payments. Id. Departmental Representative submitted that although the issue has been decided by this Hon'ble Tribunal against the Revenue. The Revenue has not filed an appeal on the basis that, tax effect was less than the monetary limit prescribed in this behalf. Therefore, the Revenue is contesting this issue on merit. He submitted that the Id. CIT(A) failed to appreciate that the assessee was required to deduct tax.

4. We have heard the rival contentions, perused the material available on record and gone through the order of the authorities below. The Co-ordinate Bench in the case of M/s Gupta Fabtex Pvt. Ltd.(supra), under the identical facts, after considering the submissions and following the decision of the Co-ordinate Bench held that the assessee was not liable for deduction of tax on the payment made to the RIICO. This decision of the Tribunal is following by the Co-ordinate Bench in the case of M/s Tijaria Polypipes Ltd. Vs. DCIT(supra). The Revenue has not brought to our notice any contrary binding precedents by the jurisdictional High Court in the Hon'ble Supreme Court. Therefore, taking a consistent view, we do not see any reason to interfere into the order of the Id. CIT(A), same is hereby affirmed. Thus, the Grounds raised in the Revenue's appeal are rejected.

5. In the result, appeal of the Revenue in **ITA No. 892/JP/2016** is dismissed.

Order is pronounced in the open court on Monday, the 17th day of April 2017.

Sd/-
(भागचन्द)
(BHAGCHAND)
लेखा सदस्य / Accountant Member
Jaipur

Sd/-
(कुल भारत)
(KUL BHARAT)
न्यायिक सदस्य / Judicial Member

Dated:- 17 /04/2017.

Pooja/

आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to:

1. The Appellant- Dy. Commissioner of Income-tax, (TDS), Jaipur.
2. The Respondent – M/s National Society for Engineering Research & Development, Jaipur.
3. The CIT(A).
4. The CIT,

5. The DR, ITAT, Jaipur
6. Guard File (ITA No. 892/JP/2016)

आदेशानुसार / By order,

सहायक पंजीकार / Assistant. Registrar