

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCHES : A : NEW DELHI

BEFORE SHRI R.S. SYAL, VICE PRESIDENT  
AND  
SHRI H.S. SIDHU, JUDICIAL MEMBER

ITA No.5441/Del/2015  
Assessment Year : 2012-13

ACIT,  
TDS-Noida, Room No.110,  
1<sup>st</sup> floor, Plot No.A-2D,  
Aayakar Bhawan,  
Sector-24,  
Noida.

Vs. Jaypee Ganga Infrastructure  
Corporation Ltd.,  
Sector-128,  
Noida.

PAN: AABCJ9667J

(Appellant)

(Respondent)

Assessee By : Shri S.K. Bharadwaj, Advocate  
Department By : Shri Arun Kumar Yadav, Sr. DR

Date of Hearing : 18.10.2017

Date of Pronouncement : 18.10.2017

ORDER

PER R.S. SYAL, VP:

This appeal by the Revenue is directed against the order passed by  
the ld. CIT(A) on 14.05.2015 in relation to the assessment year 2012-13.

2. The only issue raised in this appeal is against the deletion of demand on account of payment of bank guarantee commission without deduction of tax at source.

3. We have heard the rival submissions and perused the relevant material on record. The assessee paid bank guarantee commission to its bank without any deduction of tax at source. The Assessing Officer treated the assessee as an assessee in default for non-deduction of tax at source u/s 194H on the amount of bank guarantee commission paid without tax withholding. The ld. CIT(A) deleted the demand. It is seen that the assessee made payment to bank on principal to principal basis and, as such, there was no requirement of any deduction of tax at source. The Delhi Bench of the Tribunal in Japyee Sports International Ltd. and Others (ITA No.4279 to 4281/Del/2015 etc.) vide its order dated 31.08.2017 has held that there is no requirement of deduction of tax at source on bank guarantee commission u/s 194H of the Act. Respectfully following the precedent, we uphold the impugned order.

4. In the result, the appeal filed by the Revenue is dismissed.

The order pronounced in the open court on 18.10.2017.

Sd/-

Sd/-

[H.S. SIDHU]  
JUDICIAL MEMBER

[R.S. SYAL]  
VICE PRESIDENT

Dated, 18<sup>th</sup> October, 2017.

dk

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT (A)
5. DR, ITAT

AR, ITAT, NEW DELHI.