

**IN THE INCOME TAX APPELLATE TRIBUNAL**

**AHMEDABAD “A” BENCH**

**(BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER  
& SHRI MAHAVIR PRASAD, JUDICIAL MEMBER)**

**ITA. No: 729/AHD/2014  
(Assessment Year: 2008-09)**

<b>Shankarlal Chachan Market, D B Road Ahmedabad-380022</b>	<b>Shrikishan Hirabhai Road</b>	<b>V/S</b>	<b>Income Tax Officer, Ward-11 (4), Ahmedabad</b>
<b>(Appellant)</b>			<b>(Respondent)</b>

**PAN: ABVPC2016Q**

**Appellant by : Shri Kishor Goyal, AR  
Respondent by : Shri Rajesh Meena, Sr. D.R.**

**(आदेश)/ORDER**

Date of hearing : 09 -02-2018

Date of Pronouncement : 14-02-2018

**PER N.K. BILLAIYA, ACCOUNTANT MEMBER:**

1. This appeal by the Assessee is preferred against the order of the Ld. CIT(A)-XVI, Ahmedabad dated 16.12.2013 pertaining to A.Y. 2008-09.

2. The only grievance of the assessee is that the ld. CIT(A) erred in upholding the disallowance of job charges Rs. 6,26,617/- made u/s. 40(a)(ia) of the Act r.w.s. 194C.
3. Briefly stated the facts of the case are that in the first round of litigation, disallowances were made on account of job charges expenses and interest expenses u/s. 40(a)(ia) of the Act. The matter travelled up to the Tribunal and the Tribunal in ITA No. 2770/Ahd/2011 vide order dated 30.03.2012 restored the matter to the files of the A.O. to enable the assessee to make proper representation and the A.O. was directed to frame de novo assessment with a direction to the assessee to produce all relevant documents before the A.O.
4. Pursuant to the directions of the Tribunal, fresh opportunity of hearing was given to the assessee asking the assessee to furnish necessary details for verification.
5. On receiving no plausible reply, the A.O. once again made the disallowance u/s. 40(a)(ia) of the Act.
6. Assessee carried the matter before the ld. CIT(A) but without any success.
7. Before us, the ld. counsel for the assessee vehemently submitted that the facts of the case are squarely covered by the decision of the Hon'ble Supreme Court in the case of Hindustan Coco Cola Beverages P. Ltd. 293 ITR 226.
8. After giving a thoughtful consideration to the facts of the case in hand, we find that the ratio laid down by the Hon'ble Supreme Court in the case of

Hindustan Coco Cola Beverages Pvt. Ltd. do not apply inasmuch as the Hon'ble Supreme Court has held that recovery once again cannot be made from the deductor where the deductee included the income on which tax was alleged to have been not deducted and the deductee has included the income in its taxable income and paid taxes thereof.

9. In the case in hand in spite of several opportunities, the assessee failed to bring any evidence on record to show that the deductees have paid the taxes on the income on which the assessee failed to deduct tax at source. Neither in the first round of litigation nor in the second round before us, the assessee could furnish any documentary evidence in this regard. In our understanding of the facts of the case in hand, we do not find any error or infirmity in the findings of the ld. CIT(A).

10. Appeal filed by the Assessee is dismissed.

Order pronounced in Open Court on	14- 02- 2018
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Sd/-

**(MAHAVIR PRASAD)**  
**JUDICIAL MEMBER**     **True Copy**  
Ahmedabad: Dated     14/02/2018

Sd/-

**(N. K. BILLAIYA)**  
**ACCOUNTANT MEMBER**

Rajesh

Copy of the Order forwarded to:-

1. The Appellant.
2. The Respondent.
3. The CIT (Appeals) –
4. The CIT concerned.
5. The DR., ITAT, Ahmedabad.
6. Guard File.

By ORDER