

IN THE INCOME TAX APPELLATE TRIBUNAL, RANCHI BENCH, RANCHI

Before: **Shri J. Sudhakar Reddy, Accountant Member** and
Shri S.S. Viswanethra Ravi, Judicial Member

I.T.A No. 159/Ran/2015 A.Y 2010-11

Income Tax Officer
Ward 1(3), Jamshedpur

Appellant

Vs.

M/s. Anand Vihar
Promoters & Developers
PAN: AAFC8771J

Respondent

For the Appellant : Shri P.K. Mondal, JCIT, Id.DR
For the Respondent : Shri Devesh Poddar, Advocate, Id.AR

Date of hearing : 22-02-2018
Date of pronouncement : 28 -02-2018

ORDER

Per Bench:

This appeal by Revenue is against the order dt. 28-09-2015 of CIT(A), Jamshedpur for the assessment year 2010-11.

2. The only issue is to be decided as to whether the CIT-A justified in deleting the additions made on account of charging of interest u/s. 234B of the Act in the facts and circumstances of the case.

3. After hearing the rival submissions and perusing the record, we find that the Id. CIT-A deleted the addition on account of charging of entire interest of Rs.21,26,399/-charged u/s. 234B of the Act by relying on the decision of the Hon'ble Jurisdictional High Court in the case of Shri Ajay Prakash Verma in TA No. 38 of 2010 reported in 2013(1)TMI 140, which in turn, followed the law laid down by the Full Bench in the case of Smt. Tej Kumari reported in 114 Taxman 404 (PAT) (FB), where it was held that interest cannot be levied on assessed income and it can be levied only on the income declared in

the return of income. The appellant Revenue challenged the same before the Hon'ble Supreme Court by way of a SLP which was dismissed by holding that there is no merits in the appeal vide its order dt. 01-08-2000. The Id. DR could not controvert the same.

4. We further find the Co-ordinate Bench, ITAT, Ranchi in the case of RSB Industries Ltd(Formerly known as M/s. Lal Technologies Ltd) Vs. ACIT, ITA Nos. 199 & 200/Ran/2014 and 212 & 213/Ran/2014 for the A.Ys 2009-10 & 2010-11 and in the case of Shree Niwas Joshi Vs. ACIT, ITA Nos. 279 & 280/Ran/2016 for the A.Ys. 2001-02 & 2005-06, copy of the same are on record, on similar set of facts and circumstances has disposed of the said issue in favour of assessee by dismissing the grounds of appeal of the revenue by following the decision of the Hon'ble Jurisdictional High Court of Jharkhand in the case of *supra*. We further find that the issue in hand, facts and circumstances of those cases of ITAT Ranchi are identical and similar.

5. In view of above, and respectfully following the decision of the Hon'ble Jurisdictional High Court in the case of Ajay Prakash Varma *supra*, we are of the view that AO was not justified in charging the interest on assessed income and the CIT-A was correct in deleting the same and the order of CIT-A is upheld. Therefore, the solitary ground raised by the revenue in this regard is dismissed.

6. In the result, the appeal of the revenue is dismissed.

Sd/-
J. Sudhakar Reddy
Accountant Member

Sd/-
S.S. Viswanethra Ravi
Judicial Member

Dated :28-02-2018

PP(Sr.P.S.)

Copy of the order forwarded to:

1. Appellant – The ITO, Ward 1(1), 47 C.H Area, Jamshedpur-831001.
2. Respondent –M/s. Anand Vihar Promoters & Developers Pvt. Ltd
1st Floor, Muneshwari Bhawan, Contractor Area, Bistupur,
Jamshedpur-831001.
3. The CIT(A), Ranchi
4. CIT , Ranchi
5. DR, ITAT Ranchi Benches, Ranchi.

/True Copy,

By order,

Sr.PS
ITAT, Ranchi