

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
VISA KHAPATNAM BENCH, VISA KHAPATNAM**

श्री वी. दुर्गा राव, न्यायिक सदस्य एवं  
श्री डि.एस. सुन्दर सिंह, लेखा सदस्य के समक्ष

**BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER &  
SHRI D.S. SUNDER SINGH, ACCOUNTANT MEMBER**

आयकर अपील सं./I.T.A.No.128 /Viz/2017  
(निर्धारण वर्ष/ Assessment Year: 2012-2013)

M/s Regma Ceramics Ltd.  
Yanam  
[PAN :AABCR8268F]

Vs. ACIT, Circle-1  
Kakinada

**(अपीलार्थी/ Appellant)**

**(प्रत्यर्थी/ Respondent)**

अपीलार्थी की ओर से/ Appellant by : Shri G.V.N.Hari, AR  
प्रत्यर्थी की ओर से/ Respondent by : Shri K.C.Das, DR

सुनवाई की तारीख / Date of Hearing : 20.09.2018  
घोषणा की तारीख/Date of Pronouncement : 26.09.2018

**आदेश /ORDER**

**PER D.S. SUNDER SINGH, Accountant Member:**

This appeals is filed by the assessee against the order of the Commissioner of Income Tax(Appeals) [CIT(A)]-2, Visakhapatnam vide I.T.A.No.55/2015-16/CIT(A)-2/VSP/C-1/KKD/2016-17 dated 01.12.2016 for the assessment year 2012-13.

2. Ground Nos. 1 and 5 are general in nature which does not require specific adjudication.
3. Ground No.2 is not pressed by the Ld. AR during the appeal hearing, hence this ground is dismissed as not pressed.
4. Ground No.3 and 4 are related to the disallowance u/s 40(a)(ia) of the act, made by the Assessing Officer (AO) for not deducting the TDS on interest payment to M/s Pondicherry Industrial Promotion Development and Investment Corporation (PIPDIC) of Rs.41,35,478/- as required u/s 194A of the Income Tax Act (hereinafter called as 'Act').
5. During the assessment proceedings, the AO found that the assessee has made the payment of Rs.41,35,476/- to M/s PIPDIC, but not deducted the TDS as required u/s 194A of the Act. Therefore, the AO made the disallowance of Rs.41,35,478/- as per section 40(a)(ia) of the Act.
6. On appeal to the CIT(A), the Ld.CIT(A) confirmed the addition made by the AO.

7. Aggrieved by the order of the Ld.CIT(A), the assessee is in appeal before this Tribunal.

8. We have heard both the parties and perused the material placed on record. The assessee had paid the interest to the tune of Rs.41,35,478/- to M/s PIPDIC without deduction of tax at source. The said entity, PIPDIC is not a statutory corporation u/s 194A(iii)(b) and not a notified institution u/s 194A(iii)(f) of the Act. Therefore, the payment of interest to PIPDIC required to be deducted u/s 194A of the Act. Since the assessee has not deducted the tax at source and remitted to Government account, the payment of interest attracts disallowance u/s 40(a)(ia) of the Act. Though the Ld.AR relied on the decision of special bench in the case of Merrilyn Shipping & Transport, 146 TTJ 1 of ITAT, Visakhapatnam, now the issue is settled by Hon'ble Supreme Court in the case of Palam Gas Service [2017] 81 taxmann.com 43 (SC) and the Hon'ble Apex Court held that Word 'payable' occurring in section 40(a)(ia) not only covers cases where amount is yet to be paid but also those cases where amount has actually been paid. Therefore, we hold that the Ld.CIT(A) has rightly confirmed the addition and we do not find any reason to interfere with the order of the Ld.CIT(A).

9. In the result, the appeal of the assessee is dismissed.

The above order was pronounced in the open court on 26<sup>th</sup> September, 2018.

Sd/-

(वी.दुर्गा राव)

**(V. DURGA RAO)**

न्यायिक सदस्य/**JUDICIAL MEMBER** लेखा सदस्य/**ACCOUNTANT MEMBER**

विशाखापटणम /Visakhapatnam

दिनांक /Dated : 26.09.2018

L.Rama, SPS

Sd/-

(डि.एस. सुन्दर सिंह)

**(D.S. SUNDER SINGH)**

न्यायिक सदस्य/**JUDICIAL MEMBER** लेखा सदस्य/**ACCOUNTANT MEMBER**

विशाखापटणम /Visakhapatnam

दिनांक /Dated : 26.09.2018

L.Rama, SPS

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

1. निर्धारिती/ The Assessee- Regma Ceramics Ltd. Mettakur, Yanam, Pondicherry (UT)-533464
2. राजस्व/ The Revenue – The ACIT, Circle-1, Kakinada
3. The Commissioner of Income Tax-2, Visakhapatnam
4. The Commissioner of Income-Tax (Appeals)-2, Visakhapatnam
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, विशाखापटणम /DR, ITAT, Visakhapatnam
- 6.गार्डफ़ाईल / Guard file

आदेशानुसार / BY ORDER

// True Copy //

Sr. Private Secretary  
ITAT, VISAKHAPATNAM