

*IN THE INCOME TAX APPELLATE TRIBUNAL  
KOLKATA BENCH "SMC" KOLKATA*

Before **Shri S.S, Godara, Judicial Member**

<b>ITA No.917/Kol/2018</b> Assessment Year:2011-12
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M/s Titec Finance Ltd. 604, Block-"O" 1 <sup>st</sup> Floor, 12, Krishna Chandra Dey Sarni, New Alipore, Kolakta-53 <b>[PAN No.AACCT 6531 E]</b>	<b>बनाम/ V/s.</b>	Income Tax Officer Ward-7(2), Kolkata
अपीलार्थी /Appellant		
..		
प्रत्यर्थी /Respondent		

अपीलार्थी की ओर से/By Appellant	Shri S.M.Surana, Advocate
प्रत्यर्थी की ओर से/By Respondent	Shri Dilip Kumar Mitra, Addl-CIT-DR
सुनवाई की तारीख/Date of Hearing	19-09-2018
घोषणा की तारीख/Date of Pronouncement	05-10-2018

**आदेश /O R D E R**

This assessee's appeal for assessment year 2011-12, arises against the Commissioner of Income-tax (Appeals)-3, Kolkata's order dated 22.04.2014 passed in case No.1843/CIT(A)-3/Cir.7(2)/Kol/14-15 involving proceedings u/s. 143(3) of the Income Tax Act, 1961; in short 'the Act'.

Heard both the parties. Case file perused.

2. Learned counsel does not press for assessee's rental expenses disallowance of ₹1,35,00/- This substantive ground is dismissed as not pressed.
3. The assessee's next substantive ground challenges the correctness of both the lower authorities action disallowance commission expenses of ₹5,24,958/- paid to different parties. There is no dispute that the assessee has furnished all documentary evidence of TDS deduction, banking channel details etc. during the course of lower proceedings. The Assessing Officer invoked the impugned disallowance mainly for

the reason that same could not be verified by obtaining payees's statement. I find no reason to agree with the impugned disallowance as it has come on record that assessee has paid similar commission as an NBFC in preceding and succeeding assessment years stated to have been accepted. Learned Departmental Representative fails to rebut this crucial fact during the course of hearing. I accept the assessee's instant substantive ground accordingly.

4. Next comes both the lower authorities action disallowing assessee's preliminary expenses of ₹44,284/- by holding the same to be capital in nature. I find that impugned disallowance is also not sustainable since it represents amortization of the preliminary expenses u/s 35D of the Act. The impugned disallowance is deleted accordingly.

5. This assessee's appeal is partly allowed.

Order pronounced in open court on 05/10/2018

Sd/-  
(S.S. Godara)  
Judicial Member

Kolkata,

\*Dkp/Sr.PS

दिनांक:- 05/10/2018 कोलकाता

**आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-**

1. अपीलार्थी/Appellant-M/s Titec Finance Ltd. 604, Block "O" 1<sup>st</sup> Floor, 12, Krishna Chandra Dey Sarani, New Alipore, Kolkata-53
2. प्रत्यर्थी/Respondent-Income Tax Officer, Ward-7(2) Kolkata
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण कोलकाता / DR, ITAT, Kolkata
6. गार्ड फाइल / Guard file.

/True Copy/

By order/आदेश से,

Sr. Private Secretary, Head of  
Office/DDO  
आयकर अपीलीय अधिकरण,  
कोलकाता ।