

आयकर अपीलिय अधीकरण, न्यायपीठ – “D” कोलकाता,
*IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA BENCH “D” KOLKATA*

Before **Shri P.M. Jagtap, Accountant Member** and
Shri, S.S. Godara, Judicial Member

ITA No.2479/Kol/2017
Assessment Year :2013-14

DCIT, Circle – 22, Kolkata 54/1, Rafi Ahmed Kidwai Road, 4 th Floor, Kolkata – 700 016. [PAN No. AADFD 5357 J]	V/s.	M/s. Deloitte Haskins & Sells, Bengal Intelligent Park Building Alpha, 1 st Floor, Block-EP & GP, Sector-V, Kolkata – 700 091.
अपीलार्थी /Appellant	..	प्रत्यर्थी/Respondent

अपीलार्थी की ओर से/By Appellant	Shri Robin Chowdhury, Addl. CIT,
प्रत्यर्थी की ओर से/By Respondent	Shri P.B. Chhapgar, AR
सुनवाई की तारीख/Date of Hearing	17-09-2018
घोषणा की तारीख/Date of Pronouncement	12-10-2018

आदेश /ORDER

Per S.S.Godara, Judicial Member:-

This Revenue's appeal for assessment year 2013-14 arises against the Commissioner of Income Tax (Appeals)-6, Kolkata's order dated 12.09.2017 passed in case No.CIT(A), Kolkata-6/10066/2016-17 involving proceedings u/s 143(3) of the I.T. Act, 1961, 'in short the Act'.

Heard both the parties. Case file perused.

2. It emerges from the case file that the Revenue has raised 3 substantive grounds seeking to revive the Assessing Officer's action invoking section 40(a)(ia) disallowance of Rs. 62,88,782/- qua rent paid on hire of computers and Rs. 67,71,416/- in the nature of subscription and technology fees; both

without deducting TDS thereby holding the same to be in the nature of rent and fees for technical services u/s 194I and 194J as well as disallowing / adding indemnity insurance expenses of Rs. 13,45,821/- u/s 37(1) of the Act; respectively. The CIT(A) has all these three disallowances / additions in the course of lower appellate proceedings.

3. We notice at the outset that the Revenue had raised the very substantive grounds in its appeals ITA No. 587 & 588/K/2016 for assessment years 2010-1 & 2011-12, respectively. The said co-ordinate bench's order dated 11.07.2018 held that rent paid on hiring computers in issue is in the nature of mere reimbursement not attracting any TDS deduction. Learned co-ordinate bench thereafter concluded qua the second issue of subscription and technology fees that the same could not have been treated as fee for technical services since there was no profit element embedded therein. Coming to the 3rd issue of indemnity insurance expenses, it held this expenditure had to be wholly and exclusively incurred for the purpose of assessee's business u/s 37 of the Act. Both the learned representatives are ad-idem during the course of hearing that the CIT(A) has followed his earlier findings in the impugned assessment year mutatis mutandis while deleting all these three disallowances / additions in question. We therefore adopt judicial consistency qua all these three issues to decline Revenue's corresponding substantive grounds.

4. This Revenue's appeal is dismissed.

Order pronounced in the open court 12/10/2018

Sd/-

(लेखा सदस्य)
(P.M. Jagtap)
(Accountant Member
Kolkata,
Biswajit, Sr.P.S

दिनांक:- 12/10/2018

कोलकाता ।

Sd/-

(न्यायिक सदस्य)
(S.S.Godara)
(Judicial Member)

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

1. अपीलार्थी/Appellant-DCIT, Circle 22, Kolkata.
2. प्रत्यर्थी/Respondent-M/s. Deloitte Haskin & Sells., Kolkata.
3. संबंधित आयकर आयुक्त / Concerned CIT Kolkata
4. आयकर आयुक्त- अपील / CIT (A) Kolkata (sent through e-mail)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, **कोलकाता** / DR, ITAT, Kolkata (sent e-mail)
6. गार्ड फाइल / Guard file.

By order/आदेश से,

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