

**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA BENCH "A", KOLKATA
BEFORE SH. J.SUDHAKAR REDDY, ACCOUNTANT MEMBER &
SH. S.S.VISWANETHRA RAVI, JUDICIAL MEMBER**

ITA No.549/KOL/2017
(ASSESSMENT YEAR-2013-14)

DCIT, Circle-10(1), P-7, Chowringhee Square, 3 rd Floor, Kolkata- 700069.	vs	M/s. Creative Technotex (P.) Ltd., 73/29, Golf Club Road, Kolkata-700033. PAN-AADCC9167C
(Appellant)		(Respondent)
Appellant by		Sh. Sankar Halder, Addl.CIT Sr.DR
Respondent by		Sh.Subash Agarwal, Advocate
Date of Hearing		08.11.2018
Date of Pronouncement		28.11.2018

ORDER

PER S.S. VISWANETHRA RAVI, JUDICIAL MEMBER

This appeal by the Revenue against the order dated 11.01.2017 passed by CIT(A)-4, Kolkata for AY 2013-14.

2. Heard both and perused the material available on record. It is noted that Ground No.1 raised by the Revenue is identical to the Ground involving the same issue raised in ITA No.2035/Kol/2016 by the Revenue. This Tribunal vide order dated 27.07.2018 dismissed Ground No.1 & 2 raised by the Revenue for AY 2012-13 involving the same issue on identical facts. The relevant portion from para 11 is reproduced for better understanding:-

11. *"Heard rival submissions and perused the material available on record. The CIT(A) found the entire impugned amount is in the nature of reimbursement or incentive and held that the AO is wrong treating the entire expenditure as commission. It is noted from the record, that the assessee deducted TDS on the fixed amounts paid to C & F agents towards commission u/s 194H of the Act and there is no dispute regarding this aspect and the details of which were placed at page No.18 wherein it is clear that TDS of Rs.37,37,934/- was deducted on commission amount of Rs.3,73,96,154/-. It is seen from the order of CIT(A) that major disallowance of Rs.31,51,713/- out of impugned*

amount was incurred by C&F agents on behalf of the assessee which were reimbursed @ 50% by the assessee. The CIT(A) examined the statement shown by the expenses incurred by the assessee, C & F agents alongwith credit notes and certificates considering the payments made by the assessee to the C & F agents.”

3. In view of the above, we find no infirmity in the order of the CIT(A). Accordingly, Ground No.1 raised by the Revenue is dismissed. Ground No.2 raised by the Revenue is general in nature, requires no adjudication and it is dismissed.

4. In the result, the appeal of the Revenue is dismissed.

Order pronounced in the open court on 28.11.2018.

Sd/-
(J.SUDHAKAR REDDY)
ACCOUNTANT MEMBER

Date:-28.11.2018

Amit Kumar

Copy forwarded to:

1. Appellant- DCIT, Circle-10(1), P-7, Chowringhee Square, 3rd Floor, Kolkata-700069.
2. Respondent- M/s. Creative Technotex (P.) Ltd., 73/29, Golf Club Road, Kolkata-700033.
3. CIT-Kolkata
4. CIT(Appeals)-Kolkata
5. DR: ITAT -Kolkata Benches

Sd/-
(S.S.VISWANETHRA RAVI)
JUDICIAL MEMBER

AR/H.O.O
ITAT, KOLKATA