

**IN THE INCOME TAX APPELLATE TRIBUNAL "D", BENCH KOLKATA
BEFORE SHRI S.S. GODARA, JM & DR. A.L. SAINI, AM**

ITA No.2197/Kol/2017
(Assessment Year: 2010-11)

Wellman Wacoma Ltd. 2A, Chowringhee Square, Tower House, 3 rd Floor, Kol-69.	Vs.	DCIT, Cir-8(1), Kol P-7, Chowringhee Square, Ayakar Bhawan, 5 th Floor, Kol- 69.
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AAACW 2617 C		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

Appellant by : Shri B.K. Singh, Advocate
Respondent by : Shri K. Mondal, Sr. DR

सुनवाई की तारीख / **Date of Hearing :** 01/10/2018

घोषणा की तारीख/**Date of Pronouncement:** 28/11/2018

आदेश / O R D E R

Per Dr. Arjun Lal Saini, AM:

The captioned appeal filed by the assessee pertaining to Assessment Year 2010-11, is directed against the order passed by Id. Commissioner of Income Tax (Appeals)-3, Kolkata in Appeal No.1297/CIT(A)-3/Circle-8(2)/14-15/Kol dated 14.08.2017, which in turn arises out of an assessment order passed by the Assessing Officer u/s 143(3) of the Income Tax Act, 1961 (hereinafter referred to as the 'Act') dated 28.03.2013.

2. At the outset itself, we note that assessee has submitted before us Form No.16A in respect of TDS deducted on account of professional charges paid by the assessee to following persons:

(a) Mr. S K Kapur Rs.2,21,000/-

(b) Mr. Utpal Bose Rs.40,375/-

(c) Mr. Ravi Kapur Rs.15,320/-

3. We note that Form No.16A has neither been filed by the assessee before the Assessing Officer nor before the Id. CIT(A). Therefore, these are fresh

evidence before us, which needs to be examined by the Assessing Officer. The Tribunal has power to entertain the additional evidence in terms of Rule 29 of the Income Tax Appellate Tribunal Rules, 1963 which reads as follows:

“29. Production of additional evidence before the Tribunal.- The parties to the appeal shall not be entitled to produce additional evidence either oral or documentary before the Tribunal, but if the Tribunal requires any documents to be produced or any witness to be examined or any affidavit to be filed to enable it to pass orders or for any other substantial cause, or, if the income-tax authorities have decided the case without giving sufficient opportunity to the assessee to adduce evidence either on points specified by them, or not specified by them, the Tribunal, for reasons to be recorded, may allow such document to be produced or witness to be examined or affidavit to be filed or may allow such evidence to be adduced.”

4. We note that the Id. Counsel for the assessee explained before us that these additional evidences were not available during the assessment proceedings and during the appellate proceedings, therefore, the assessee now has submitted before the Bench to consider these additional evidences.

5. We have given a careful consideration to the rival submissions and perused the materials available on record, we note that the Id. Counsel for the assessee submitted before us the additional evidences i.e. Form No.16 in respect of Mr. S K Kapur, Mr. Utpal Bose and Mr. Ravi Kapur. These additional evidences have neither been submitted before the Assessing Officer nor before the Id. CIT(A). Therefore, we are of the view that an opportunity should be given to the Assessing Officer to examine these additional evidences and adjudicate the issue as per provisions of law. Therefore, we set aside the order of the Id. CIT(A) and remit the matter back to the file of the Assessing Officer to examine the additional evidences and adjudicate the issue in accordance with law.

6. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on this 28/11/2018.

Sd/-
(S.S. Godara)

न्यायिक सदस्य / JUDICIAL MEMBER

कोलकाता /Kolkata;

Dated:28/11/2018

RS, Sr.PS

Sd/-
(A. L. Saini)

लेखा सदस्य / ACCOUNTANT MEMBER

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant- Wellman Wacoma Ltd.
2. प्रत्यर्थी / The Respondent.- DCIT, Cir-8(1), Kol
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, **कोलकाता** / DR, ITAT, Kolkata
6. गार्ड फाईल / Guard file.

//True Copy//

By Order

Assistant Registrar
I.T.A.T, Kolkata Benches,
Kolkata.