

IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA BENCH 'D', KOLKATA
(Before Shri S. S.Viswanethra Ravi, J.M. & Dr.A.L.Saini, A.M.)

ITA No. 264/Kol/2018 : Asstt. Year : 2010-11

I.T.O. Ward 12(1), Kolkata	Vs	M/s. Renault Developers P.Ltd PAN:AABCR 3545B
(APPELLANT)		(RESPONDENT)

Appellant by : Shri Sankar Halder, JCIT, Id.Sr.DR
Respondent by : None appeared

Date of Hearing : 06-12-2018	Date of Pronouncement:07-12-2018
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ORDER

Per Dr. A.L.Saini, A.M.:

The captioned appeal filed by the revenue, pertaining to assessment year 2010-11, is directed against the order passed by the Commissioner of Income-tax (Appeals)-4, Kolkata in Appeal No. 236/CIT(A)-4/W-12(1)/13-14, dated 02-11-2017, which in turn arises out of an order passed by the Assessing Officer u/s. 143(3) of the Income-Tax Act, 1961 (in short, the Act), dated 26-03-2013.

2. At the time of hearing before us none appeared on behalf of the assessee inspite of issuance of notice of hearing more than one occasion and the Id. Departmental Representative (Id.DR) was present for the appellant Revenue. In the absence of any appearance by the assessee, the appeal is being disposed off ex parte qua the assessee after hearing the Id. DR for the revenue on merits in terms of Rule 24 of the ITAT Rules 1963. After hearing the Id.DR for the revenue, we note that in the impugned order of the Id. CIT(A), the Id. CIT(A) directed the AO to verify as to whether the deductee has included the interest income in its total income or not, if it is found

that the deductee has included the interest income in its total income, then no disallowance u/s. 40(a)(ia) of the Act can be made. Therefore, the Id. CIT(A) directed the AO to verify the factual position and allow the appeal of assessee for statistical purposes. We note that the issue under consideration, in assessee's case is that whether the second proviso to section 40(a)(ia) is retrospective in nature or not. We note that co-ordinate Bench of this Tribunal has held in the case of M/s Vas Electronics, Kolkata Vs. ACIT in ITA No. 662/Kol/2013, order dt. 24-11-2015, that the second proviso to section 40(a)(ia) of the Act is retrospective in nature. Therefore, Id. CIT(A), has rightly directed to the assessing officer to verify as to whether the deductee has included its interest income to the total income or not and if it is found that the deductee included it in its total income, no disallowance u/s. 40(a)(ia) of the Act can be made. That being so, we decline to interfere in the order of the Id. CIT(A), his order on this issue is hereby upheld and the grounds raised by the revenue are dismissed.

3. In the result, the appeal filed by the revenue is dismissed.

Order Pronounced in the Open Court on 07-12-2018

Sd/-
(S.S.Viswanethra Ravi)
Judicial Member

Sd/-
(Dr. A.L.Saini)
Accountant Member

Dated: 07 -12-2018

*PRADIP (Sr.PS)

Copy of the order forwarded to:

1. The Appellant/Revenue: Income Tax Officer, Ward 12(1), Kolkata, 7th Floor, Aaykar Bhawan, P-7 Chowringhee Square, Kolkata-69.
2. The Respondent/Assessee: M/s. Renault Developers Pvt. Ltd 3A, Rammohan Mullick Garden Lane, EM Bypass, Kolkata-10.
3. The CIT-,
4. The CIT(A)-,
5. DR, Kolkata Benches, Kolkata

True Copy, By order,

Asst. Registrar
ITAT, Kolkata Benches