

**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA 'B' BENCH, KOLKATA**

(Before Sri J. Sudhakar Reddy, Accountant Member & Sri S.S. Godara, Judicial Member)

ITA No. 1990/Kol/2017
Assessment Year: 2013-14

Income Tax Officer, Ward-49(1), Kolkata.....Appellant

Vs.

Soma Rani Ghosh.....Respondent
274, Canal Street
Shreebhumi
Kolkata - 700 048
[PAN : AFOPG 9346 JJ]

Appearances by:

Shri I. Banerjee, FCA, appeared on behalf of the assessee.

Shri Robin Choudhury, Addl. CIT, Sr. D/R. appearing on behalf of the Revenue.

Date of concluding the hearing : December 19th, 2018

Date of pronouncing the order : January 16th, 2019

ORDER

Per J. Sudhakar Reddy, AM :-

This appeal filed by the revenue is directed against the order of the Learned Commissioner of Income Tax (Appeals) - 15, Kolkata (hereinafter the 'Ld. CIT(A)'), dt. 02/06/2017, passed u/s 250 of the Income Tax Act, 1961 (hereinafter the 'Act'), relating to Assessment Year 2013-14.

2. The assessee is in the business of exporting goods under the name and style of M/s. Medimpex. It filed its return of income for the Assessment Year under consideration on 28/09/2013 declaring total income of Rs.14,80,310/-.

3. The sole issue that arises for our consideration is whether the ld. CIT(A) was justified in deleting the addition made by the Assessing Officer u/s 40(a)(ia) of the Act.

4. After hearing rival submissions, we find that at para 3 the ld. CIT(A) followed the decision of the Jurisdictional Tribunal in the assessee's own case for the Assessment Year 2012-13, and held as follows:-

*"I have considered the facts of the case the submissions of the assessee.
Appellant has submitted the list of payees alongwith their PAN No. both*

during the assessment proceedings and during appeal proceedings . Appellant has also submitted copy of TDS return filed where the names of payees are visible. Thus appellant has complied with the conditions laid down in 194C(6) and 194C(7). Hence, in view of the provisions of the Income Tax Act, assessee was not required to deduct tax at source on payments made to those transporters whose PAN No. she had obtained. AO has simply made the disallowance by following precedence of assessment year 2012-13 when such disallowances were upheld by Ld. CIT(A). Hon'ble ITAT, Kolkata in its order (supra) has granted relief to the assessee with following remarks-

"33. In view of the above and respectfully following the judicial reasoning delineated in the above judgments, we find that if the assessee complies with the provisions of section 194C(6), disallowance under section 40(a)(ia) does not arise just because there is violation of provisions of section 194C(7) of the Act."

*In view of the above disallowances made by the AO are not justified. Hence, disallowances of **Rs. 1,42,14,212/- and Rs. 26,52,650/- are deleted.**"*

4.1. Though the ld. D/R, argued that there are certain infirmities in the order of the Tribunal for the Assessment Year 2012-13, we do not see any reason to deviate from the view taken by the co-ordinate bench of the Tribunal in the assessee's own case for the Assessment Year 2012-13. As the ld. CIT(A) has followed this decision, we have no hesitation in upholding the same.

5. In the result, appeal of the revenue is dismissed.

Kolkata, the 16th day of November, 2019.

Sd/-
[S.S. Godara]
 Judicial Member
 Dated : 16.01.2019
 {SC SPS}

Sd/-
[J. Sudhakar Reddy]
 Accountant Member

Copy of the order forwarded to:

1. **Soma Rani Ghosh**

274, Canal Street
Shreebhumi
Kolkata - 700 048

2. **Income Tax Officer, Ward-49(1), Kolkata**

3. CIT(A)-

4. CIT- ,

5. CIT(DR), Kolkata Benches, Kolkata.

True copy

By order

Assistant Registrar
ITAT, Kolkata Benches