

आयकर अपीलीय अधिकरण न्यायपीठ रायपुर में ।  
**IN THE INCOME TAX APPELLATE TRIBUNAL,  
RAIPUR BENCH, RAIPUR**

**BEFORE SHRI ANIL CHATURVEDI, AM  
AND  
SHRI PARTHA SARATHI CHAUDHURY, JM**

आयकर अपील सं. / ITA No.75/RPR/2016  
निर्धारण वर्ष / Assessment Year : 2010-11

The Deputy Commissioner of Income Tax-1(1),  
32/32 Bungalows, Bhilai

.....अपीलार्थी / Appellant

**बनाम / V/s.**

M/s. Amar Builder,  
G.E. Road, Durg, (C.G.)

PAN : AAJFA0907H

.....प्रत्यर्थी / Respondent

Assessee by : Shri R.B. Doshi

Revenue by : Shri P.V. Mishra

सुनवाई की तारीख / Date of Hearing : 16.01.2019

घोषणा की तारीख / Date of Pronouncement : 17.01.2019

**आदेश / ORDER****PER ANIL CHATURVEDI, AM :**

This appeal by the Revenue is emanating out of the order of Commissioner of Income-Tax (A)-II, Raipur dated 21-01-2016 for the A.Y. 2010-11.

2. The relevant facts as culled out from the material on record are as under :-

Assessee is a partnership firm stated to be engaged in the business of civil and road construction. Assessee filed its return of income for A.Y. 2010-11 on 29-09-2010 declaring total income of Rs.3,04,66,395/-. The case was selected for scrutiny and thereafter the assessment was framed u/s 143(3) vide order dated 28-03-2013 and the total income was determined at Rs.13,92,61,900/-. Thereafter, Assessing Officer passed order u/s. 154 of the Act on 14-06-2013 whereby he rectified certain mistakes in the order passed u/s. 143(3) and determined the total income at Rs.13,92,61,900/-. Aggrieved by the order of Assessing Officer passed u/s. 154 of the Act, assessee carried the matter before Ld. CIT(A), who vide order dated 21-01-2016 (in Appeal No : CIT(A)-II/RPR/A.No.386/13-14/2015-16) decided the issue in favour of the assessee. Aggrieved by the order of Ld. CIT(A), Revenue is now in appeal before us and has raised the following grounds :

- “1. Whether on the facts and law & in the circumstances of the case, that the Ld. CIT(A) was justified in holding that the deduction claimed by the assessee towards provision for road repairs appearing under the head “Road Work Maintenance Warranty” amounting to Rs.7,75,63,487/- which relates to ascertained liability and not contingent liability?”
2. The Order of the Ld. CIT(A) is erroneous both in law and on facts.
3. Any other ground that may be adduced at the time of hearing.”

3. The notice of appeal was sent to the assessee through RPAD on 16-08-2018 for hearing on 01-01-2019. None appeared on behalf of the assessee. Fresh notice through RPAD was issued for hearing on 16-01-2019. The notice was duly served as is evident from the acknowledgment available on record. Despite service of notice neither the assessee nor any authorized representative of assessee appeared to represent the case. Neither there is any request for adjournment from the assessee. Under such circumstances we proceed to decide the appeal of the assessee ex-parte qua assessee on the basis of the material available on record.

4. Before us Ld. D.R. supported the order of Assessing Officer.

5. We have heard the submissions made by Ld. D.R. and perused the material on record. We find that the CIT(A) while deciding the issue has noted that against the order passed by Assessing Officer u/s. 143(3) on the issues on which disallowance was made, assessee had carried the matter before CIT(A) and CIT(A) vide order dated 13-08-2013 (appeal No. 354/13-14) has decided the issue in favour of assessee and thereafter in appeal

before ITAT, the issue has been decided in favour of assessee by the Tribunal vide order dated 17-12-2014. He thus decided the issue in favour of the assessee. Before us Revenue has not pointed out any fallacy in the findings of CIT(A). Under such circumstances we find no reason to interfere with the order of CIT(A) and thus, the grounds of appeal of Revenue are dismissed.

**6. In the result, the appeal of Revenue is dismissed.**

Order pronounced on 17<sup>th</sup> day of January, 2019.

Sd/-  
**PARTHA SARATHI CHAUDHURY**  
**JUDICIAL MEMBER**

Sd/-  
**ANIL CHATURVEDI**  
**ACCOUNTANT MEMBER**

रायपुर/ RAIPUR ; दिनांक / Dated : 17<sup>th</sup> January, 2019.  
RK

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

1. The Appellant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, I.T.A.T., Raipur

//True Copy//

आदेशानुसार / BY ORDER,

निजी सचिव / Private Secretary  
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur.

		Date	
1	Draft dictated on	16.01.2019	Sr.PS/PS
2	Draft placed before author	17.01.2019	Sr.PS/PS
3	Draft proposed and placed before the second Member		JM/AM
4	Draft discussed/approved by second Member		AM/JM
5	Approved draft comes to the Sr. PS/PS		Sr.PS/PS
6	Kept for pronouncement on		Sr.PS/PS
7	Date of uploading of order		Sr.PS/PS
8	File sent to Bench Clerk		Sr.PS/PS
9	Date on which the file goes to the Head Clerk		
10	Date on which file goes to the A.R		
11	Date of dispatch of order		