

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ, "बी" चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL
DIVISION BENCH, 'B', CHANDIGARH

श्री संजय गर्ग, न्यायिक सदस्य एवं डा. बी.आर.आर, कुमार, लेखा सदस्य
BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER AND
DR. B.R.R. KUMAR, ACCOUNTANT MEMBER

आयकर अपील सं./ ITA No. 1229/CHD/2018

निर्धारण वर्ष / Assessment Year : 2012-13

The ACIT, Circle 2(1), Chandigarh	बनाम	M/s Sukham Infrastructure Pvt Ltd., SCO 123-124, 3 rd Floor, Sector 17-C, Chandigarh
स्थायी लेखा सं./PAN NO: AAJCS5706M		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : None

राजस्व की ओर से/ Revenue by : Sh. Manjit Singh, Sr.DR

सुनवाई की तारीख/Date of Hearing : 28.01.2019

उदघोषणा की तारीख/Date of Pronouncement : 11.2..2019

आदेश/Order

Per Sanjay Garg, Judicial Member:

The present appeal has been preferred by the Revenue against the order dated 12.07.2018 of the Commissioner of Income Tax (Appeals)-4, Ludhiana [hereinafter referred to as 'CIT(A)'].

2. Though various grounds have been raised by the Revenue but the sole issue involved in this appeal by the Revenue is regarding the action of the CIT(A) in deleting the disallowance made by the Assessing officer u/s 40(a)(ia) for non-deduction of TDS as per the provisions of section 194A and 194C of the Income-tax Act, 1961 (in short 'the Act') on payment of External Development Charges (EDC) by the assessee to the Greater Mohali Area Development Authority (GMADA).

3. None appeared on behalf of the assessee.
4. The Ld. DR, though, has relied on the order of the Assessing officer but has fairly conceded that the issue is covered by the earlier decision of the Tribunal in the own case of the assessee dated 7.6.2018 rendered in the case of 'ITO v M/s Sukham Infrastructure Pvt Ltd,' ITA No. 638/Chd/2015, which has also been followed by the Tribunal in the case of 'ITO Vs. Sh. Nirankar Singh' vide order dated 01.08.2018 passed in ITA No. 433/Chd/2018.
5. We find that the Ld. CIT(A) after considering the facts and circumstances of the present case has rightly followed the decision of the Tribunal dated 7.6.2018 in the own of assessee titled as 'ITO (TDS) Vs. M/s Sukham Infrastructure Pvt Ltd (supra), wherein, the Tribunal vide para 13 to para 22 of the order has held that the provisions of section 194C and 194A are not applicable in respect of payment of EDC charges and interest on delayed payment of EDC remitted by the assessee to GMADA. Moreover, the issue is now squarely covered by the decision of the Hon'ble Supreme Court in the case of 'CIT (TDS) & Anr Vs. Canara Bank' Civil appeal No. 6020 of 2018 vide order dated 2.7.2018.
6. In view of this, we do not find any infirmity in the order of the CIT(A) and deleting the additions so made by the Assessing officer.

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

Order pronounced in the Open Court on 11.2.2019

Sd/-

(बी,आर.आर. कुमार / B.R.R. KUMAR)

लेखा सदस्य/ Accountant Member

Dated : 11.2.2019

"आर.के."

Sd/-

(संजय गर्ग / SANJAY GARG)

न्यायिक सदस्य /Judicial Member

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

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar