

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES: 'A', NEW DELHI

BEFORE SHRI N.S. SAINI, ACCOUNTANT MEMBER
AND SMT. BEENA A PILLAI, JUDICIAL MEMBER

ITA No. 5730/Del/2014
AY: 2011-12

Atlantic Realtor Private Ltd. A-185, Suraj Mal Vihar New Delhi 110 092 PAN: AADFA2989D	vs.	DCIT, Circle 2(1) New Delhi
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(Appellant)

(Respondent)

Assessee by : Sh. Abhinav Gupta, CA.
Department by : Mrs. Aastha Lakshmi, Sr.D.R.

Date of Hearing : 05/03/2019

Date of Pronouncement: 03/06/2019

ORDER

PER BEENA A PILLAI, JUDICIAL MEMBER

Present appeal has been filed by assessee against order dated 13/07/14 passed by LdCIT(A)-5, New Delhi for Assessment Year 2011-12 on following grounds of appeal:

"1. The CIT(A) erred in law and on facts in not deleting the excess interest of Rs.7,63,608/- charged u/s 234A and Rs.2,09,339/- u/s 234B in assessment order for A.Y. 2011-12 despite the fact that the appellant has deposited a sum of Rs.1,29,98,110/- on 31/03/2012

i.e. before filing of return. Thus, order of the Ld.CIT(A) passed merely on surmises and conjectures should be reversed.

2. The appellant craves leave to add, substitute, modify, delete or amend all or any ground of appeal either before or at time of hearing."

2. Brief facts of case are as under.

Assessee for year under consideration filed its return of income belatedly on 04/10/12 by declaring income of Rs. 3,28,40,260/-. A sum of Rs. 1,29,98,110/- was paid on 31/03/12 under section 140 A of the Income Tax Act, 1961 (the Act) i.e. 6 months before date of filing of writ.

3. Case was picked up for scrutiny under section 143(2) on 12/08/13 and assessed at income amounting to Rs.3,28,40,260/- on 18/02/14. Ld. AO computed interest of Rs. 14,18,131/- under section 234A and Rs. 15,82,445/- under section 234B on entire tax amount up to date of filing of return i.e. 04/10/12.

4. Aggrieved by order of Ld.AO assessee preferred appeal before Ld.CIT (A) wherein he raised a plea that Ld. AO did not give credit of taxes and interest amounting to Rs.1,29,98,110/- paid by assessee on 31/03/12. After going through law applicable to present facts of case Ld.CIT(A) directed Ld. AO to re-compute interest in accordance with provisions of section 234A and 234B.

5. Aggrieved by order of Ld. CIT (A) assessee is in appeal before us now.

6. Ld.AR submitted that Ld. AO has not computed interest under section 234A and 234B to present facts of case. He

submitted that Ld.AO failed to give credit to taxes paid by assessee on 31/03/12 i.e. prior to date of filing of return.

7. Ld.Sr.DR placed reliance upon order passed by Ld.CIT(A) wherein a direction has already been given to Ld.AO for re-computing interest in accordance with provisions of section 234A and 234B of the Act.

8. We have perused submissions advanced by both sides in light of records placed before us.

9. The issue relates to levy of interest under section 234A & B of the Act. The due date of filing return of income for year under consideration was 31/07/11. Ld.AO computed interest under section 234A for late filing of return. Ld.AR placed reliance upon decision of *Hon'able Delhi High Court* in case of *Dr Prannoy Roy vs CIT* reported in *121 taxman 314* wherein *Hon'ble Court* held that interest under section 234A is payable in a case where tax has not been deposited prior to due date of filing of return. In present case assessee failed to deposit self-assessment tax before due date of filing of return. However, it is observed that assessee paid self-assessment tax under section 140A on 31/03/12 and return was filed on 4/10/ 2012. Thus in our considered opinion as per provisions of the Act, interest under section 234A & B has to be computed after reducing amount of tax paid by assessee in the form of advance tax or tax deducted or collected at source etc.

9.1. We are, therefore, of considered opinion that interest under section 234 A & B shall be computed after reducing a sum of Rs.1,29,98,110/- paid by assessee on 31/03/12.

9.2. On perusal of order passed by Ld.CIT(A) a similar direction has been issued by Ld.CIT(A) to re-compute interest in accordance with provisions of section 234 A and 234 B. We do not find any infirmity in such direction issued by Ld.CIT(A). We uphold the same with a specific direction to Ld.AO to compute interest after reducing amount of tax paid by assessee on 31/03/12.

10. Accordingly the appeal filed by assessee stands allowed for statistical purposes.

Order pronounced in open court on/06/2019.

Sd/-
(N.S. SAINI)
ACCOUNTANT MEMBER

Sd/-
(BEENA A PILLAI)
JUDICIAL MEMBER

Dt. 03rd June, 2019

- gmv

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Appellant
Respondent
CIT
CIT(A)
DR, ITAT

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By Order,

ASSISTANT REGISTRAR
ITAT Delhi Benches

	Date
Draft dictated on	07/05/19
Draft placed before author	07/05/19 31/05/19
Draft proposed & placed before the second member	
Draft discussed/approved by Second Member.	
Approved Draft comes to the Sr.PS/PS	
Kept for pronouncement on & Order uploaded on :	03/06/19
File sent to the Bench Clerk	
Date on which file goes to the AR	
Date on which file goes to the Head Clerk.	
Date of dispatch of Order.	