

INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "F": NEW DELHI
BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER
AND
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER

ITA No. 1182/Del/2019
(Assessment Year: 2015-16)

Western Drilling Contractors Pvt. Ltd, Plot No. 1A, Sector-16A, Noida PAN: AAAPW5961A (Appellant)	Vs.	ITO, Ward-3(5), Noida (Respondent)
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Assessee by :	Shri K.M. Gupta, Adv
Revenue by:	Shri Surender Pal, Sr. DR
Date of Hearing	23/07/2019
Date of pronouncement	22/10/2019

O R D E R

PER PRASHANT MAHARISHI, A. M.

1. This is an appeal filed by the assessee against the order of the Id CIT(A)-I, Noida dated 28.09.2018 for the Assessment Year 2015-16, wherein, the appeal of the assessee is dismissed filed against the order of the Id AO dated 19.12.2017 u/s 143(3) of the Act. As the Id CIT(A) held that the appeal of the assessee cannot be admitted without payment of necessary fees in terms of provision of section 249(1)(a) of the Act.
2. The assessee has raised the following grounds of appeal:-
 - “1.0 That the Learned CIT(A) grossly erred on facts and in law in passing the impugned order without giving sufficient and a proper opportunity to the appellant to be heard. The impugned order is passed in violation of Principles of Natural Justice.
 - 1.1 That the Learned CIT(A) grossly erred on facts and in law in not considering challan of appeal fee deposited vide challan no 00001 dated 12.01.2018 for Rs 1,000/- under Section 249(l)(a) and filed by appellant along with appeal memo and holding that appeal filed by appellant is not admissible / maintainable on account of non deposit of appeal fee.

- 2.0 *That on the facts and circumstances of the case and in law the Learned CIT(A) erred in confirming the assessment of Interest of Rs 1,21,42,350/- earned on Fixed deposits placed as Margin Money with Bank for issue of Bank Guarantee for Oil Blocks, as income of the appellant.*
- 2.1 *That on the facts and circumstances of the case and in law the Learned CIT(A) erred in not appreciating that interest income being inextricably linked to the capital expenditure is to be reduced from the cost of capital work in progress and is not income from other sources.*
- 2.2 *That on the facts and circumstances of the case and in law the Learned CIT(A) erred in deciding the appeal without any findings on merit of the case.*
- 3.0 *That on the facts and circumstances of the case and in law, Ld. CIT(A) erred in confirming the penalty order whereas same was not subject matter of appeal. Hence order passed by Ld. CIT(A) is bad in law.”*
3. The assessee filed its return of income on 30.09.2015 declaring income of Rs. 45840/-. Assessee was assessed at Rs. 12188190/- u/s 143(3) of the Act as per order dated 19.12.2017. The addition of Rs. 12142350/- was made.
4. The assessee aggrieved, preferred an appeal before the ld CIT(A) wherein, he dismissed the appeal of the assessee for non payment of fee u/s 249(1)(a) for admission of the appeal, was not available on record.
5. The ld AR submitted that the assessee has already deposited the fees. The assessee submitted Form No. 26AS wherein, on 12.01.2018 the assessee had deposited the appeal filing fees of Rs. 1000/-. Therefore, the ld CIT(A) has erroneously dismissed the appeal of the assessee, so it was dismissed.
6. The ld DR submitted that the assessee did not pay or submit the proof of payment of filing of fee before the ld CIT(A).
7. We have carefully considered the rival contentions and find that assessee has deposited the appeal filing fees on 12.06.2018 vide challan No. 1 of Rs. 1000/-. In view of this, we set aside the appeal to

the file of the ld CIT(A) to verify the above payment of filing of fee of appeal and decide the issue on merits of the case.

8. Accordingly, the appeal of the assessee is allowed with above direction for statistical purposes.

Order pronounced in the open court on 22/10/2019.

-Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

-Sd/-
(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER

Dated: 22/10/2019
A K Keot

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1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi