

**IN THE INCOME TAX APPELLATE TRIBUNAL DELHI
BENCH 'A', NEW DELHI**

**BEFORE MS SUSHMA CHOWLA, VICE PRESIDENT
AND
SH. ANIL CHATURVEDI, ACCOUNTANT MEMBER**

(THROUGH VIDEO CONFERENCING)

ITA No.5614/Del/2017
Assessment Year: 2013-14

ACIT Circle – 3(1), New Delhi	Vs.	M/s APCO Worldwide (India) Pvt. Ltd., 1 st Floor, ALPS Building, 56 Janpath, New Delhi-110 001 PAN No. AAFCA 8835 M
(APPELLANT)		(RESPONDENT)

Assessee by	Ms. Rakhi Vimal, Sr. D.R
Revenue by	Shri Ajay Vohra, Sr. Adv. Shri Gaurav Jain, Adv.

Date of hearing:	04/08/2020
Date of Pronouncement:	09/09/2020

ORDER

PER ANIL CHATURVEDI, AM:

This appeal filed by the Revenue is directed against the order dated 07.06.2017 of the Commission of Income Tax (A)-I, New Delhi relating to Assessment Year 2013-14.

2. The relevant facts as culled from the material on records are as under:

3. Assessee is a company which is stated to be engaged in the business of providing management, public relationship consultancy and other similar services to its overseas group companies and to the Indian clients. Assessee filed its return of income for A.Y. 2013-14 on 29.11.2013 declaring loss of Rs.7,33,725/-. The case was taken up for scrutiny and thereafter, assessment was framed u/s 143(3) r.w.s 153 and 153B of the Act vide order dated 23.05.2016 and the total income was determined at Rs.1,41,48,241/-. Aggrieved by the order of AO, assessee carried the matter before CIT(A) who order dated 07.06.2017 in Appeal No.148/16-17 allowed the appeal of the assessee. Aggrieved by the order of CIT(A), Revenue is now before us and has raised the following grounds:

- “1. On the facts and in the circumstances of the case, the Ld CIT(A) has erred in deleting the disallowance of Rs.1,48,81,966/- made by the AO u/s 40(a)(ia) of the Income-tax Act, 1961 due to non-deduction of TDS on reimbursement of expenses to overseas group entities.
2. The appellant carves leave to reserving the right to amend, modify, alter, add or forego any ground(s) of appeal at any time before or during the hearing of this appeal.”

4. During the course of assessment proceedings, AO noticed that assessee had claimed expenses of Rs.1,48,81,966/- on account of “Group charges”. The assessee was asked to show-

cause as to why the aforesaid expenses not be disallowed as the TDS was not deducted while making the payment. Assessee made detailed submission *inter alia* stating that the aforesaid amount represents the amount paid to various overseas group companies towards recoupment of actual cost incurred by them on behalf of assessee on various corporate administration, finance support, information technology support etc. It was submitted that the amount received by those overseas companies cannot be considered as income of the recipient as no profit element was involved. It was further submitted that with holding of tax was only required when the payment were chargeable to tax in India. It was therefore, submitted that the payments were not subject to deduction of tax u/s 195 of the Act. The submission of the assessee was not found acceptable to AO. The AO was of the view that since the assessee has not deducted tax on group charges paid to non-resident companies, the provision of section 40(a)(ia) are attracted. He accordingly disallowed the amount and made addition of Rs. 1,48,81,966/-. Aggrieved by the order of AO, assessee carried the matter before the CIT(A) who after considering the submission of the assessee, deleted the addition by holding that assessee was not required to deduct TDS on the reimbursement of the expenses made to overseas entities. Aggrieved by the order of CIT(A), Revenue is now before us.

5. Before us, Learned DR supported the order of AO. Learned AR on the other hand, reiterated the submissions made before the

CIT(A) and submitted that identical issue arose before the Tribunal in assessee's own case in A.Y. 2010-11, 2011-12 & 2012-13. He pointed to the copy of the aforesaid orders placed in the paper book and submitted that the Tribunal after noting the fact that the payment made by the assessee represented its share of expenses incurred by the group companies on cost to cost basis and that it being reimbursement and therefore, the assessee was not required to deduct TDS and the applicability of Section 195 does not arise. He stated that there are no change in the fact of the case for the year under consideration and that of earlier years and therefore, no interference to the order of CIT(A) is called for.

6. We have heard the rival contentions and perused the materials available on record. The issue in the present ground is with respect to disallowance of expenses u/s 40(a)(ia). The expenses were disallowed by the AO for the reason that on the amount of expenses which have been claimed by the assessee, no TDS was deducted by it. We find that CIT(A) has given finding that the assessee was not required to deduct TDS on the reimbursement of the expenses made to the overseas entities as it was on cost to cost basis. We further find that the coordinate Bench of Tribunal while deciding the identical issue in assessee's own case in A.Y. 2010-11, 2011-12 & 2012-13 has held that the provision of section 195 are not attracted on the amounts paid by assessee to its overseas group Companies as it was mere

reimbursement and that no disallowance u/s 40(a)(ia) are attracted. Before us, Revenue has not pointed out any distinguishing features in the fact of the case for the year under consideration and that of earlier years nor has placed any material on record to demonstrate that the order of Tribunal in assessee's own case for A.Y. 2010-11 to 2012-13 has been set aside/ stayed or overruled by higher judicial forum. In view of the aforesaid facts, we find no reason to interfere with order of CIT(A).

Thus ground of appeal of Revenue is dismissed.

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

Order pronounced in the open court on 09.09.2020

Sd/-

**(SUSHMA CHOWLA)
VICE PRESIDENT**

Priti Yadav, Sr.PS

Sd/-

**(ANIL CHATURVEDI)
ACCOUNTANT MEMBER**

Date:- 09.09.2020

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI

Date of dictation	04.08.2020
Date on which the typed draft is placed before the dictating Member	04.08.2020
Date on which the approved draft comes to the Sr.PS/PS	04.08.2020
Date on which the fair order is placed before the Dictating Member for Pronouncement	04.08.2020
Date on which the fair order comes back to the Sr. PS/ PS	09.09.2020
Date on which the final order is uploaded on the website of ITAT	09.09.2020
Date on which the file goes to the Bench Clerk	09.09.2020
Date on which file goes to the Head Clerk.	
The date on which file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	