

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH: 'F': NEW DELHI)
(THROUGH VIDEO CONFERENCING)**

**BEFORE SH. SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER
AND
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

**ITA No:- 4313/Del/2015
(Assessment Year: 2010-11)**

Quippo Oil and Gas Infrastructure Limited D-2, 5 th Floor, Southern Park, Saket Palace, Saket, New Delhi-110017	Vs.	Deputy Commissioner of Income Tax- Circle -14(1), New Delhi
APPELLANT		RESPONDENT
PAN No: AAACQ1278P		

Revenue By : Smt. Sushma Singh, CIT-DR
Assessee By : Smt. Alka Arren , Adv.

PER ANADEE NATH MISSHRA, A.M.:

(A) This appeal by the assessee is filed against the order of Learned Commissioner of Income Tax (Appeals)-VII, New Delhi, [Ld. CIT(A)", for short], dated 17/03/2015 for Assessment Year 2010-11. Grounds taken in this appeal of Assessee are as under:

"1.0 That on the facts and in the circumstances of the case, the Learned Commissioner of Income Tax (Appeals) [here-in-after referred to as Ld. CIT(Appeals)] was not justified & grossly erred in confirming the disallowance of mobilization expenses u/s 40(a)(ia) of Rs. 3,84,56,000/- for non deduction of tax without

considering the fact that the appellant was not liable to deduct TDS on entire amount.

2.0 That on the facts and in the circumstances of the case, the Ld. CIT(Appeals) was not justified in holding that the appellant was not covered by Section 194C (6) of the Act without providing any reason for such conclusion and without considering the submissions of the appellant.

3.0 That on the facts and in the circumstances of the case, and without prejudice to the ground no. 1.0 & 2.0 taken here-in-above, the Ld. CIT(Appeals) was not justified & grossly erred in confirming the addition of the entire amount u/s 40(a)(ia) of Rs. 3,84,56,000/- instead of Rs. 2,86,56,000/- as the appellant had duly deducted TDS on balance amount of Rs. 98,00,000/-.

4.0 That on the facts and in the circumstances of the case, the Ld. CIT(Appeals) was not justified & grossly erred in confirming disallowance of professional charges u/s 40(a)(ia) amounting to Rs. 8,07,512/- for deduction of tax at a lower rate in computing total income under the normal provisions of the Act.

5.0 That on the facts and in the circumstances of the case, the Ld. CIT(Appeals) was not justified & grossly erred in confirming disallowance of interest u/s 36(1)(iii) amounting to Rs. 4,89,69,642/- contending that borrowings were given to related entity at a lower rate and there was no commercial expediency in the transaction.

6.0 That on the facts and in the circumstances of the case, the Ld. CIT(Appeals) was not justified & grossly erred in not considering the fact that loans made to the subsidiary company were at a higher rate than the rate at which the appellant had made the borrowings and hence there was no diversion of funds at lower rates.

7.0 That on the facts and in the circumstances of the case, and without prejudice to the Ground no. 5.0 & 6.0 taken here-in-above, the Ld. CIT(Appeals) was not justified & grossly erred in considering gross interest expense at Rs. 7,73,47,737/- instead of amount actually incurred at Rs. 7,36,71,782/-, thereby resulting in excess disallowance by Rs. 36,75,955/- in computing total income under the normal provisions of the Act.

8.0 That the appellant craves leave to add, to amend, modify, rescind, supplement or alter any of the grounds stated here-in-above, either before or at the time of hearing of this appeal."

(B) At the time of hearing, at the outset, the learned Counsel for the Assessee informed us that the assessee has opted to settle the aforementioned appeal under Vivad Se Vishwas Scheme, 2020 ("VSVS", for short) and that the assessee has already filed the relevant forms. She also informed that Form-3 has been issued by competent authority under VSVS. The Ld. Counsel for assessee also drew our attention to letter dated 22nd February, 2021 filed in Income Tax Appellate Tribunal ("ITAT", for short) giving intimation for the same, and requesting to withdraw this appeal.

(B.1) At the time of hearing before us, the Ld. Counsel for assessee as well as the learned Commissioner of Income Tax (Departmental Representative) ("Ld. CIT- DR", for short) submitted before us that this appeal may be treated as withdrawn and may be dismissed on account of the aforesaid VSVS. After due consideration, and in view of the foregoing; and as both sides have agreed to this; we are of the view that this appeal has become infructuous, and treat this appeal as withdrawn on account of the aforesaid VSVS. Accordingly, this appeal having become infructuous, is hereby dismissed as withdrawn, subject to settlement of the disputes in the appeals under the aforesaid VSVS.

(C) Before we part, we hereby clarify, by way of abundant caution, that if for some reason the disputes under this appeal before us are not settled under the aforesaid VSVS, then the assessee will be at liberty to approach ITAT for restoration of this appeal, in accordance with law.

(D) In the result, appeal of the assessee is dismissed.

Our order was already pronounced orally in Open Court on 22.02.2021 in the presence of the representative of both sides; after the conclusion of hearing. Now this order in writing is being released today on 23/02/21.

Sd/-
(SUDHANSHU SRIVASTAVA)
JUDICIAL MEMBER

Sd/-
(ANADEE NATH MISSHRA)
ACCOUNTANT MEMBER

Dated: 23/02/2021

Vinita

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI