

आयकर अपीलीय न्यायाधिकरण न्यायपीठ रायपुर में।  
IN THE INCOME TAX APPELLATE TRIBUNAL,  
RAIPUR BENCH, RAIPUR

(Through Virtual Court at Pune)

BEFORE SHRI RAVISH SOOD, JUDICIAL MEMBER  
AND  
SHRI JAMLAPPA D. BATTULL, ACCOUNTANT MEMBER

आयकरअपीलसं. / ITA No. 224/RPR/2016  
निर्धारणवर्ष / Assessment Year : 2012-2013

Hind Energy And Coal Benefication (India) Pvt Ltd,  
Shrikant Verma Marg, Bilaspur (C.G.)  
PAN : AABCH5699C

.....अपीलार्थी / Appellant

**बनाम / V/s.**

Dy Commissioner of Income Tax-2(1),  
Bilaspur (C.G.)

.....प्रत्यर्थी / Respondent

**Appearances**

Assessee by : Shri S. R. Rao  
Revenue by : Shri G.N Singh, CIT-DR

सुनवाईकीतारीख / Date of conclusive Hearing : 03/02/2022  
घोषणाकीतारीख / Date of Pronouncement : 03/02/2022

**आदेश/ ORDER**

**PER JAMLAPPA D. BATTULL, AM;**

The present appeal is filed by the assessee company against the first appellate order of Commissioner of Income Tax - Appeals, Bilaspur [for short "CIT(A)"] passed u/s 250 vide order dt 15/03/2016, which in turn flow out of the assessment order [for short "Ao"] dt 03/02/2015 for AY 2012-2013 passed by the Ld Assessing Officer [for short "Ld AO"] u/s 143(3) of the Income-tax Act, 1961 [for short "the Act"]

2. There are two issues involved in the present appeal, first is relating to disallowance u/s 40(a)(ia) for non-deduction of tax at source [for short “TDS”] on sum paid to resident payee and secondly disallowance u/s 14A of the Act, owing to the claim of an appellant assessee falling within rule 8D(1)(b).

3. Before advancing the matter on facts for adjudication, it is necessary to reproduce grounds challenged by the appellant company as under;

*“1. In the facts and circumstance of the case, the learned Commissioner of Income-Tax (Appeals) has erred in confirming the order of the learned Assessing Officer disallowing Rs1,53,20,400/- u/s 40(a)(ia) of the Income Tax Act, 1961 by overlooking the law laid down in various case including that rendered by the Hon’ble jurisdictional Bench of the Income –tax Appellate Tribunal.”*

*“2. The Learned Commissioner of Income-tax (Appeals) has erred in confirming the disallowance of Rs1,60,240/- made u/s 14A of the Income-tax Act, 1961 though the appellant did not incur any expenditure falling u/s 14A of the Income-tax Act, 1961”*

*“3. The order of the Id. Commissioner of Income-tax (Appeals) is bad in law and on facts.”*

*“4. The appellant reserves the right to add, alter, and omit all or any of the grounds of appeal with the permission of the Hon’ble appellate authority”*

6. Having laid the ground of appeal for adjudication, now we turn to the facts of the case which pithily are, the appellant assessee is a closely held limited company, engaged in trading of coal, has filed its return of income [for short “ROI or ITR”] on 29/09/2012 declaring the total income of Rs7,39,01,010/-. The return was processed & accepted summarily u/s 143(1) of the Act. Subsequently the case was selected for scrutiny by issue of a notice u/s 143(2) dt 07/08/2013 through registered post. A regular assessment, after making certain additions was completed u/s 143(2) of the Act by the Ld AO.

7. On this date of first hearing, the counsel for the assessee referring to an application of withdrawal dt 28/01/2022 made to and received by this Tribunal, entreated for withdrawal of appeal without prosecuting the matter further for the reason “*due to developments post filing the appeal*” as stated therein.
8. Ld departmental representative expressed no objection in assessee’s action of withdrawing this appeal.
9. After hearing to the rival contention of both the parties; perused material placed on record and duly considered the facts of the case in the light of legal position. In the light of written application from the Ld AR of the assessee company and no objection from the revenue, we allow the appeal for withdrawal.
10. Resultantly, the appeal of the appellant assessee is dismissed, with no order as to cost.

Order pronounced in the open court on this Thursday 3<sup>rd</sup> day of February, 2022.

Sd/-  
RAVISH SOOD  
JUDICIAL MEMBER

Sd/-  
JAMLAPPA D. BATTULL  
ACCOUNTANT MEMBER

रायपुर/ RAIPUR ; दिनांक / Dated : 3<sup>rd</sup> February, 2022

आदेशकीप्रतिलिपिअग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT (Appeals), Raipur (C.G)
4. The Pr. CIT, Raipur (C.G)
5. विभागीयप्रतिनिधि, आयकरअपीलीयन्यायाधिकरण, रायपुरबेंच,  
रायपुर / DR, ITAT, Raipur Bench, Raipur.
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

निजीसचिव / Private Secretary  
आयकरअपीलीयअधिकरण, रायपुर / ITAT, Raipur.

Sr	Event	Occurrence Date	Attributes
1	Draft dictated on	01/02/2022	Sr.PS/PS
2	Draft placed before author	02/02/2022	Sr.PS/PS
3	Draft proposed and placed before the second Member	02/02/2022	JM/AM
4	Draft discussed/approved by second Member		AM/JM
5	Approved draft comes to the Sr. PS/PS		Sr.PS/PS
6	Kept for pronouncement on		Sr.PS/PS
7	Date of uploading of order		Sr.PS/PS
8	File sent to Bench Clerk		Sr.PS/PS
9	Date on which the file goes to the Head Clerk		
10	Date on which file goes to the Asstt Registrar		
11	Date of dispatch of order		