

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'C' BENCH  
MUMBAI**

**BEFORE: SHRI M.BALAGANESH, ACCOUNTANT MEMBER  
&  
MS. KAVITHA RAJAGOPAL, JUDICIAL MEMBER**

**ITA No.7490/Mum/2019  
(Assessment Year 2014-15:)**

M/s. P.R. Packing Service 1A, 1 <sup>st</sup> Floor, Pushpam CHS Ltd., K.D.Road, Vile Parle(W) Mumbai – 400 056	Vs.	Assistant Commissioner of Income Tax-25(3) Mumbai 601, Bld. C-10 Pratyakshakar Bhavan, Bandra Kurla Complex Bandra (E), Mumbai-400051
<b>PAN/GIR No.AAEFP6431E</b>		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

Assessee by	Ms. Neha Paranjpe & Shri Om Kandalkar
Revenue by	Shri R A Dhyani, Sr. AR
<b>Date of Hearing</b>	<b>12/04/2022</b>
<b>Date of Pronouncement</b>	<b>12/04/2022</b>

**आदेश / O R D E R**

**PER M. BALAGANESH (A.M):**

This appeal in ITA No.7490/Mum/2019 for A.Y.2014-15 arises out of the order by the Id. Commissioner of Income Tax (Appeals)-37, Mumbai in appeal No.CIT(A)37, Mumbai/11406/2016-17 dated 22/10/2019 (Id. CIT(A) in short) against the order of assessment passed u/s.143(3) of the Income Tax Act, 1961 (hereinafter referred to as Act) dated 22/12/2016 by the Id. Asst. Commissioner of Income Tax-25(3), Mumbai (hereinafter referred to as Id. AO).

2. The only issue to be decided in this appeal is as to whether the Id. CIT(A) was justified in confirming the disallowance made u/s.40(a)(ia) of

the Act in respect of interest paid on loans to non-banking financial companies without deduction of tax at source.

3. We have heard rival submissions and perused the materials available on record. It is not in dispute that assessee had borrowed loans from Non-Banking Finance Companies (NBFCs). It is not in dispute that interest was paid on such loans by the assessee to NBFCs without deduction of tax at source. The Id. AO disallowed the said interest by applying the provisions of Section 40(a)(ia) of the Act as the payments were made without the deduction of tax at source. Before the Id. CIT(A), the assessee filed additional evidences in the form of certificate from the Chartered Accountant in the prescribed form that the payees i.e. NBFCs had duly included the said interest income in their returns and paid taxes thereon. This request was not accepted by the Id. CIT(A). We find that the facts and documentary evidences stated in the additional evidences before the Id. CIT(A) were not denied or doubted by the revenue before us. Accordingly, we hold that the assessee would be eligible for immunity from disallowance of expenditure under second proviso to Section 201 of the Act. Hence, assessee cannot be treated as assessee in default. Accordingly, no disallowance u/s.40(a)(ia) of the Act could be made in the hands of the assessee payer. Either way, there is no loss to the exchequer in the instant case in respect of tax portion. Accordingly, the grounds raised by the assessee are allowed.

**4. In the result, appeal of the assessee is allowed.**

Order pronounced in the open Court on 12/04/2022.

**Sd/-**  
**(KAVITHA RAJAGOPAL)**  
JUDICIAL MEMBER

**Sd/-**  
**(M.BALAGANESH)**  
ACCOUNTANT MEMBER

Mumbai; Dated 12/04/2022  
KARUNA, *sr.ps*

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent.
3. The CIT(A), Mumbai.
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)  
**ITAT, Mumbai**