

**आयकर अपीलीय अधिकरण, कोलकाता पीठ “सी”, कोलकाता**  
**IN THE INCOME TAX APPELLATE TRIBUNAL “C” BENCH: KOLKATA**  
श्री राजेश कुमार, लेखा सदस्य एवं श्री संजय शर्मा न्यायिक सदस्य के समक्ष  
[Before Shri Rajesh Kumar, Accountant Member & Shri Sonjoy Sarma, Judicial Member]

**I.T.A. No. 620/Kol/2022**  
**Assessment Year: 2013-14**

Rishikesh Hire Purchase and Leasing Co. Pvt. Ltd. (PAN: AAECR 3743 A)	Vs.	DCIT, Circle-1(2), Kolkata
Appellant / (अपीलार्थी)		Respondent / (प्रत्यर्थी)

Date of Hearing / सुनवाई की तिथि	15.02.2023
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	23.02.2023
For the Appellant/ निर्धारिती की ओर से	Shri Abhishek Bansal, A.R
For the Respondent/ राजस्व की ओर से	Shri Vijay Kumar, Addl. CIT

**ORDER / आदेश**

**Per Rajesh Kumar, AM:**

This is the appeal preferred by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals)-NFAC, Delhi (hereinafter referred to as the Ld. CIT(A)”) dated 31.08.2022 for the AY 2013-14.

2. The Registry has pointed out that the appeal is time barred by 7 days. At the time of hearing, we note that the delay is for reasonable cause and therefore we condone the delay and admit the appeal for hearing.

3. The only issue raised by the assessee is against the confirmation of disallowance of Rs. 54,55,050/- by Ld. CIT(A) as made by AO u/s 40a(ia) of the Act on account of non-deduction of TDS from interest expenses of Rs. 52,59,050/- and professional charges of Rs. 1,96,000/-.

4. Facts in brief are that the assessee has paid interest on unsecured loan of Rs. 52,59,050/- on which TDS of Rs. 5,25,905/- u/s 194A of the Act was deducted which was deposited into Govt. Treasury on 30.09.2013. Similarly the assessee has created provisions for professional charges of Rs. 1,96,000/- on which TDS was deducted u/s 194J amounting to Rs. 19,600/- which was too deposited on 30.09.2013. The assessee filed return of income on 30.09.2013 along with also tax audit report dated 02.09.2013. In Item no. 27.B(iv) tax auditor appended a table of payments made by the assessee during the year on which no TDS was deducted due to shortage of funds whereas as a matter of fact the TDS was deposited on 30.09.2013 on the date when the return was filed. The AO on the basis of said tax audit report disallowed these expenses as such u/s 40a(ia) of the Act and added the same to the income of the assessee.

5. In the appellate proceedings, the appeal was decided by NFAC ex-parte as the assessee did not respond to the various notices issued.


6. After hearing the rival submissions and perusing the material on record including the tax audit report and challans of payments filed by the assessee in respect of deposit of TDS into Govt. Treasury, we find that the TDS was deposited on 30.09.2013 which falls within the due date of filing of return. Thus the assessee has duly deposited TDS as per the provisions of the Act and therefore provisions of Section 43B are not attracted as there is no violation /default on the part of the assessee in depositing the tax and no disallowance can be made. The made the addition on the basis of tax audit report dated 02.09.2013 and it undisputed that till then the TDS deducted was not deposited. For the sake of ready reference and convenience we are extracted below the challans as under:

I.T.A. No. 620/Kol/2022  
Assessment Year: 2013-14  
Rishikesh Hire Purchase and Leasing Co. Pvt. Ltd.

CBDT-ePayment Cyber Receipt

Date : 30 Sep 2013 10:16 PM


CBDT-ePayment Approved Successfully

 <b>AXIS BANK</b>	
CYBER RECEIPT FOR CBDT e-TAX PAYMENT	
CHALLAN NO./ITNS 281	
Tax Deduction Account No. (T.A.N)	DELR19474A
Full Name	RISHIKESH HIRE PURCHASE AND LEASING COMPANY PVT LTD
Address	BR-44B,,SHALIMAR BAGH,
City	NEW DELHI
State	DELHI
Pin Code	110088
TAX APPLICABLE	<input checked="" type="checkbox"/> (0020) COMPANY DEDUCTEES <input type="checkbox"/> (0021) NON-COMPANY DEDUCTEES
TYPE OF PAYMENT	<input checked="" type="checkbox"/> (200)TDS/TCS Payable by Taxpayer <input type="checkbox"/> (400)TDS/TCS Regular Assessment (Raised by I.T. Deptt.)
NATURE OF PAYMENT CODE	94A - Interest other than Interest on Securities
DETAILS OF PAYMENT	
Income Tax	525905
Surcharge	0
Education Cess	0
Interest	0
Penalty	0
Others	0
Fee Sec 234E	0
Total	525905
Total in words	Rupees Five Lacs Twenty Five Thousand Nine Hundred Five Only
BANK SEAL	
<b>AXIS BANK</b>	
Internet Tax Payment Ref No : 4Q239606	
Debit to A/C: 423010200008341 on 30/09/2013 22:16:52	
BSR Code Tender Date	
Challan No	
CIN :- 6360218 30092013	
39678	
AXIS BANK Limited	
Garia Branch, Kolkata (Internet Collection Branch)	

CBDT-ePayment Cyber Receipt

Date : 30 Sep 2013 4:07 PM

CBDT-ePayment Approved Successfully

 <b>AXIS BANK</b>	
CYBER RECEIPT FOR CBDT e-TAX PAYMENT	
CHALLAN NO./ITNS 281	
Tax Deduction Account No. (T.A.N)	DELR19474A
Full Name	RISHIKESH HIRE PURCHASE AND LEASING COMPANY PVT LTD
Address	BR-44B,,SHALIMAR BAGH
City	NEW DELHI
State	DELHI
Pin Code	110088
TAX APPLICABLE	<input checked="" type="checkbox"/> (0020) COMPANY DEDUCTEES <input type="checkbox"/> (0021) NON-COMPANY DEDUCTEES
TYPE OF PAYMENT	<input checked="" type="checkbox"/> (200)TDS/TCS Payable by Taxpayer <input type="checkbox"/> (400)TDS/TCS Regular Assessment (Raised by I.T. Deptt.)
NATURE OF PAYMENT CODE	94J - Fees for Professional or Technical Services
DETAILS OF PAYMENT	
Income Tax	19600
Surcharge	0
Education Cess	0
Interest	1764
Penalty	0
Others	0
Fee Sec 234E	0
Total	21364
Total in words	Rupees Twenty One Thousand Three Hundred Sixty Four Only
BANK SEAL	
<b>AXIS BANK</b>	
Internet Tax Payment Ref No : 10240041	
Debit to A/C: 423010200008341 on 30/09/2013 16:07:16	
BSR Code Tender Date	
Challan No	
CIN :- 6360218 30092013	
34661	
AXIS BANK Limited	
Garia Branch, Kolkata (Internet Collection Branch)	

Though the challans were not been examined by the AO but considering the apparent facts on record and also the challans reproduced before us by the assessee as extracted hereinabove, we do not deem it fit to restore the file back to the lower authorities. In our opinion, the assessee has made due compliance by depositing TDS on 30.09.2013 whereas the tax audit report was compiled and signed on 2.09.2013. Considering this factual matrix, we direct the AO to delete the disallowance. The appeal of the assessee is allowed by setting aside the order of Ld. CIT(A).

7. In the result, the appeal of the assessee is allowed.

Order is pronounced in the open court on 23<sup>rd</sup> February, 2023

Sd/-  
(Sonjoy Sarma /संजय शर्मा)  
Judicial Member/न्यायिक सदस्य

Sd/-  
(Rajesh Kumar/राजेश कुमार)  
Accountant Member/लेखा सदस्य

Dated: 23<sup>rd</sup> February, 2023

SB, Sr. PS

Copy of the order forwarded to:

1. Appellant- Rishikesh Hire Purchase and Leasing Co. Pvt. Ltd., 33, C.R. Avenue, Room No. 908B, Kolkata-700012.
2. Respondent – DCIT, Circle-1(2), Kolkata
3. Ld. CIT(A)-NFAC, Delhi
4. Pr. CIT- , Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar  
ITAT, Kolkata Benches, Kolkata