

आयकर अपीलीय अधिकरण न्यायपीठ जोधपुर, जोधपुर में।
IN THE INCOME TAX APPELLATE TRIBUNAL,
JODHPUR BENCH : : JODHPUR

BEFORE SHRI PAVAN KUMAR GADALE,
JUDICIAL MEMBER AND
DR. DIPAK P. RIPOTE, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.363/JODH/2018
निर्धारण वर्ष / Assessment Year : 2014-15

Rajtech Infrastructure Pvt. Ltd., Arnod Road, Pratapgarh, Rajasthan. PAN: AADCR 5871 J	V s	The Assistant Commissioner of Income Tax, Circle Chittorgarh.
Appellant / Assessee		Respondent / Revenue

Assessee by	Shri Amit Kothari – AR
Revenue by	Ms. Nidhi Nair – JCIT(DR)
Date of hearing	11/08/2023
Date of pronouncement	30/10/2023

आदेश/ ORDER

PER DR. DIPAK P. RIPOTE, AM:

This is an appeal filed by the assessee against the order of ld.CIT(A)-1, Udaipur dated 17.04.2018 emanating from assessment order under section 143(3) of the Income Tax Act, 1961 dated 27.12.2016. The grounds of appeal are as under :

“1. THE LD CIT APPEALS HAS ERRED IN DISALLOWING THE INTEREST PAID TO BANKING FINANCE COMPANIES ON THE GROUND OF NON TDS.

2. THE LD CIT APPEALS IS NOT JUSTIFIED IN CONFIRMING THE ADDITION OF THE INTEREST ON IT REFUND THROUGH BOOK ADJUSTMENT WHICH WAS

NEVER INFORMED TO THE ASSESSEE.

*3. THE APPELLANT CARVES TO ADD, AMEND, ALTER
OR MODIFY ANY OF THE GROUNDS OF APPEAL.*

4. THE ASSESSEE PRAY JUSTICE.”

Submissions of Id.AR :

2. The Id.Authorised Representative(Id.AR) of the assessee stated that Hinduja Leyland Finance, Mahindra Finance are Non Banking Finance Companies(NBFC's) registered under Reserve Bank of India(RBI) Act, 1934. The Id.AR filed copies of the print outs taken from the websites of the companies. Therefore, the Id.AR pleaded that as per section 194A(3)(iii), assessee is exempted from deducting tax at source as assessee has paid interest to Hinduja Leyland Finance and Mahindra Finance.

Submission Id.DR :

3. The Id.Departmental Representative for the Revenue brought to our notice that these documents were not filed before Lower Authorities. The Id.DR read out para 7 of the Id.CIT(A)'s order in which it is categorically mentioned that no evidence has been filed by assessee to prove that Hinduja Leyland Finance and Mahindra Finance fall under the categories mentioned under section 194A(3)(iii) of the Act.

Findings & Analysis :

4. In this case, assessee has paid Rs.13,52,500/- to M/s.Hinduja Leyland Finance, Mahindra Finance and Indesand Finance. Since no TDS was made, Assessing Officer(AO) disallowed the said amount under section 40(a)(ia) of the Act. Aggrieved by the same, the assessee had filed appeal before the Id.CIT(A).

4.1 The relevant para of Id.CIT(A)'s order is reproduced here as under :

“7. I have considered the submissions of the appellant and the relevant findings of the AO. The assessee has contended that interest of Rs.13,52,500/- was paid to Banking Finance Companies and therefore there was no requirement of deduction of TDS on such payment. Undisputedly, as per Section 194A(3)(iii)(a), TDS is not required to be made from income credited or paid to a “ any banking company to which the Banking Regulation Act, 1949 (10 of 1949), applies, or any co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank)”. However, in-the instant case, the assessee has not furnished any evidence that M/s Hinduja Leyland Finance, Mahendra &Mahendra Finance and Indesand Finance, person to whom interest has been paid without deduction of tax at source, fall u/s 194A(3)(iii)(a). Accordingly, the disallowance of Rs.13,52,500/-, made by the AO u/s 40(a)(ia) is hereby confirmed. The ground of appeal is thus dismissed.”

5. Thus, it is categorically mentioned by the Id.CIT(A) that no evidence has been filed by assessee to prove that Hindustan Leyland Finance, Mahindra Finance, Indesand Finance fall under section 194A(3)(iii) of the Act. Before us, the Id.AR has filed printouts from websites. However, these evidences were not before the Lower Authorities. Since these evidences goes to the root of the issue, we admit them as additional evidences. Since these were not before Lower Authorities, we set-aside the issue to the Assessing Officer for verification in the light of submission made by assessee that Hinduja Leyland Finance, Mahindra Finance, Indesand Finance fall in the category of 194A(3)(iii) of the Act. The Assessing Officer shall give opportunity to the assessee. The assessee shall file all the necessary documents before the Assessing Officer. Accordingly, grounds of appeal raised by the assessee are allowed for statistical purpose.

6. In the result, appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open Court on 30th October, 2023.

Sd/-
(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

Sd/-
(DR. DIPAK P. RIPOTE)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 30th Oct, 2023/ SGR*

आदेश की प्रतिलिपिअग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), concerned.
4. The Pr. CIT, concerned.
5. विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, जोधपुर बेंच,
जोधपुर / DR, ITAT, Bench, Jodhpur.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// TRUE COPY //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे/ITAT, Pune.