

IN THE INCOME TAX APPELLATE TRIBUNAL "SMC" BENCH KOLKATA

**Shri Sonjoy Sarma, Judicial Member
Shri Rakesh Mishra, Accountant Member**

**I.T.A. No.1760/Kol/2024
Assessment Year: 2013-14**

Carwin Trading Pvt. Ltd.,
E-24/7, Karunamayee, Salt Lake,
North 24 Pgs., Kolkata-700091
[PAN: AABCC1186H].....**Appellant**

vs.

Income Tax Officer,
Ward -2(1), Kolkata,
P-7, Chowringhee Square,
Aayakar Bhawan,
Kolkata - 700069..... **Respondent**

Appearances by:

Assessee represented by :Anil Kochar, Advocate
Department represented by :Supriya Pal. Addl. CIT(DR)

Date of concluding the hearing :September 24, 2024
Date of pronouncing the order :September 26, 2024

ORDER

Per Sonjoy Sarma, Judicial Member:

This appeal filed by the assessee pertaining to the Assessment Year (in short 'AY') 2013-14 is directed against the order passed u/s 250 of the Income Tax Act, 1961 (in short the 'Act') by the Ld. Commissioner of Income Tax (Appeals) (in short "the Ld. CIT(A)"), National Faceless Appeal Centre (NFAC), Delhi, dated 19.06.2024 arising out of Assessment Order dated 30.09.2021, passed under Section 254/144/143(3) of the Act.

2. The Assessee has raised the following grounds of appeal:

"1. For that the orders passed by the lower authorities are arbitrary, erroneous, without proper reasons, invalid and bad-in-law, to the extent to which they are prejudicial to the interests of the appellant.

2. For that the Ld. CIT (A) erred in dismissing the appeal of the appellant on alleged grounds.

3. For that the Ld. CIT (A) erred in not holding that the A.O. has not provided sufficient and reasonable opportunity to the appellant to explain the issue relating to non-deduction of tax at source as per the directions of the Hon'ble Tribunal.

4. For that the Ld. CIT (A) erred in passing a perverse order without properly appreciating the facts of the case and also the directions of the Hon'ble Tribunal.

5. For that the Ld. CIT (A) ought to have properly appreciated that already the details etc. were submitted during the course of appellate proceedings against the original assessment which travelled till Tribunal.

6. For that the Ld. CIT (A) has not properly adjudicated the Ground No.2, 4 and 5 taken by the appellant in the Grounds of Appeal which renders the appellate order perverse in nature.

7. For that the Ld. CIT (A) erred in confirming the addition of Rs.8,46,260/- made by the A.O. under the provision of Sec.40(a)(ia) of the Act on alleged grounds.

8. For that the appellant craves leave to amend, alter, modify, substitute, add to, abridge and/or rescind any or all of the above grounds."

3. Brief facts of the case are that the several additions were made by the AO including disallowance of Rs. 8,46,260/- u/s 40(a)(ia) of the Act for non-deduction of tax at source against interest payment on unsecured loans. The case was travelled up to the Ld. CIT(A) and later the Tribunal regarding this issue remand back to the matter of the AO in order to verify whether the payees in the instant case had accounted for the income in question and had paid tax accordingly or not.

4. Despite the direction, assessee did not submit the relevant details before the AO resulting in the disallowance of Rs. 8,46,260/- u/s 40(a)(ia) of the Act.

5. Dissatisfied with the AO's decision, assessee went in appeal before the Ld. CIT(A), where the appeal was dismissed.

6. Aggrieved by the order of the Ld. CIT(A), the assessee brought the matter before the Tribunal, raising multiple grounds of appeal. The primary grievance of the assessee was that the Ld. CIT(A) erred in upholding that AO had provided sufficient and reasonable opportunity to the assessee to explain the issue relating to non-deduction of tax at source, as per the Tribunal directions. In order to substantiate its claim, the assessee placed before this Tribunal, the various details of the payees namely Urmila Gandhi, Vimla Gandhi, Abhay Gandhi (HUF), Gaurav Gandhi to whom interest payments were made. The assessee submitted various details including payees computation of income details of interest paid by the assessee and their respective return of income, the purpose was to prove that payee had shown the interest income in their return had duly paid tax for the relevant assessment year. Consequently, the assessee argued that no revenue loss had incurred due to non-deduction of tax and requested to Tribunal to set aside the addition made by the AO. On the other hand, the Ld. DR supporting the decision of the lower authorities.

7. We after hearing the rival submissions of parties and reviewing the material placed on record, we find that the assessee had demonstrate that payees had shown the interest income in their respective returns and had paid the applicable tax during the relevant assessment year. Since no revenue loss occurred to the revenue authorities, the addition made by the AO was not correct. Accordingly, we set aside the addition made by the AO with a direction to delete the alleged addition made by the AO. In the light of the above, appeal filed by the assessee is allowed.

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

Kolkata, the 26th September, 2024.

Sd/-
[Rakesh Mishra]
Accountant Member

Sd/-
[Sonjoy Sarma]
Judicial Member

Dated: 26.09.2024.

AK, PS

Copy of the order forwarded to:

- 1 Carwin Trading Pvt. Ltd.,
2. Income Tax Officer, Ward -2(1), Kolkata
3. CIT(A)-
4. CIT-
5. CIT(DR)

//True copy//

By order

Assistant Registrar, Kolkata Benches

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