

**आयकर अपीलीय अधिकरण, हैदराबाद पीठ**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**Hyderabad ' B ' Bench, Hyderabad**

**Before Shri Manjunatha, G. Accountant Member and**  
**Shri K. Narasimha Chary, Judicial Member**

आ.अपी.सं / **ITA No.518/Hyd/2024**  
(निर्धारण वर्ष / Assessment Year: 2013-14)

AGA Publications Ltd Hyderabad PAN:AABCA8511G (Appellant)	Vs.	Dy. CIT Circle 1(1) Hyderabad (Respondent)
निर्धारिती द्वारा / Assessee by:	Shri P Murali Mohan Rao, CA	
राजस्व द्वारा / Revenue by:	Shri Karthik Manickam, DR	
सुनवाई की तारीख / Date of hearing:	29/10/2024	
घोषणा की तारीख / Pronouncement:	29/10/2024	

**आदेश / ORDER**

**Per Manjunatha, G. A.M**

This appeal filed by the assessee is directed against the order dated 03/04/2024 of the learned CIT (A)-NFAC Delhi, relating to A.Y.2013-14.

2. The brief facts of the case are that the assessee company is engaged in the business of publication of newspapers, filed its return of income for the A.Y 2013-14 on 22/07/2014 declaring an income of Rs.35,35,790/- under normal provisions of the Act, and book profits of Rs.(-) 1,46,21,872/-. During the

course of assesment proceedings, the Assessing Officer noticed that during the financial year relevant to A.Y 2013-14, the assessee has paid a sum of Rs.1,85,62,456/- to M/s Prabhata Vartha Pvt. Ltd and Rs.1,13,27,615/- to M/s. Superior Printers Pvt Ltd. The assessee claimed that the amount paid to above two companies is reimbursement of various expenditure incurred by above companies on behalf of the assessee. The Assessing Officer observed that the amount paid by the assessee to M/s. Prabhata Vartha Pvt Ltd and Superior Printers Pvt Ltd without deduction of taxes at source is not allowable as deduction because as per the provisions of section 194C of the Act, the assessee ought to have deducted TDS on payment made to above two parties. Therefore, rejected the explanation of the assessee and made addition towards the amount paid to above two parties u/s 40(a)(ia) of the Act,

3. The assessee carried the matter in appeal before the learned CIT (A) and the learned CIT (A) for the reasons stated in their appellate order dated 3/4/2024 dismissed the appeal filed by the assessee and upheld the additions made by the Assessing Officer.

4. Being aggrieved, the assessee is in appeal before the Tribunal.

5. The learned Counsel for the assessee submitted that this issue is squarely covered in favour of the assessee by the decision of the ITAT Hyderabad Benches in appellant's own case for the A.Y 2014-15 in ITA No.879/Hyd/2018, order dated 15/03/2019, where the Tribunal held that the provisions of section 194C is not applicable for reimbursement of expenditure and consequently amount paid without deduction of tax cannot be disallowed u/s 40(a)(ia) of the Act. Therefore, he submitted that the additions made by the Assessing Officer should be deleted.

6. The learned DR, on the other hand, supporting the order of the learned CIT (A) submitted that as per the provisions of section 194C, the assessee is required to deduct TDS on payment made to other parties towards various expenditure whether the said payment is directly made by the assessee or reimbursed to 3<sup>rd</sup> parties for making payment on behalf of the assessee. The learned CIT (A) after considering the relevant facts has rightly upheld the additions made by the Assessing Officer and their orders should be upheld.

7. We have heard both the parties, perused the material available on record and gone through the orders of the authorities below. The facts borne out from the record indicate that the assessee has reimbursed sum of Rs.1,85,62,456/- to M/s. Prabhata Varta (P) Ltd towards various expenditure incurred by the above party on behalf of the assessee. Similarly, the assessee

has reimbursed Rs.1,13,27,615/- to Superior Printers (P) Ltd for reimbursement of various expenditure incurred by the above party on behalf of the assessee. Both the payments have been made without deducting tax at source as per the provisions of section 194C of the Act, The Assessing Officer disallowed the said payment u/s 40(a)(ia) of the Act, for non-deduction of tax at source u/s 194C of the Act,.

8. We find that an identical issue has been considered by the Tribunal in appellant's own case for the A.Y 2014-15 in ITA No.879/Hyd/2018 dated 15/03/2019 wherein the Tribunal under identical set of facts has held as under:

8. We have heard both the parties, considered the rival submissions and perused the material available on record. We have also gone through the orders of the Authorities below. We find that the expenditure incurred by the assessee pertains to reimbursement of salaries, miscellaneous expenses. These facts are not disputed by the Department. The Coordinate Bench of the Tribunal at Ahmedabad has considered the very same issue by following the decision of the Hon'ble Gujarat High Court in the case of CIT vs. Gujarat Narmada Valley Fertilizers Co Ltd [2013] 35 taxmann.com 638 (Guj.) and the decision of the Hon'ble Bombay High Court in the case of CIT vs. ITD Cem India JV [2018] 405 ITR 533 (Bom) and held that in the case reimbursement of expenses, no TDS is required to be deducted. For the sake of ready reference and convenience, relevant para 9 from the said Tribunal's order is extracted as under:-

“9. The Ground No.2 concerns addition of Rs. 2.57 lakhs under section 40(a)(ia) of the Act on account of non deduction of TDS. As pointed out on behalf of the assessee, the aforesaid payment made to Adani Power Ltd was on account of re-imbursement of actual expenses, the details of which are provided at page no.226 of the paper book. In the absence of any income element in the payment made, the obligation to deduct tax at source on such payment do not arise and consequently, provisions of section 40(a)(ia) of the Act do not come into play in view of the decision of the Hon’ble Gujarat High Court in the case of CIT vs. Gujarat Narmada Valley Fertilizers Co Ltd [2013] 35 taxmann.com 638 (Guj.). The law that a mere reimbursement does not require to deduction was also followed in CIT vs. ITD Cem India JV (2018) 405 ITR 533 (Bom.) in respect of reimbursement of administrative expenses to a joint venture partner. Therefore, we do not

*find any error in the order of the CIT(A) and consequently decline to interfere.”*

9. We, respectfully following the decision of the Coordinate Bench of the Tribunal at Ahmedabad (supra), are of the opinion that the A.O. is not correct in invoking the provisions of section 40(a)(ia) in this case and therefore, the grounds no.2 and 3 raised by the Revenue are dismissed.

10. Ground no.4 relates CIT(A)’s direction to A.O. to verify whether the payees have offered the amount to tax or not. In this regard, so far as the assessee’s alternative argument is that the payee has already filed the return of income wherein he has offered the income tax and therefore no disallowance can be made. The Ld. CIT(A) by considering the submissions of the assessee and also by following the decision of the ITAT in the assessee’s own case in ITA No.249/Hyd/2013 (supra) directed the A.O. to verify whether the payee has offered the very amount to tax or not and allow the ground raised by the assessee. Therefore, in view of the above facts and circumstances of the case, we find no infirmity in the order of the CIT(A) and the ground no.4 raised by the Revenue is dismissed.

9. Coming to another aspect of the issue, the learned Counsel for the assessee submitted that the recipient company have filed the return of income for A.Y 2013-14 and included the amount paid by the assessee in their return of income and paid relevant taxes. Therefore, in view of the decision of the Hon'ble Supreme Court in the case of Hindustan Coco Cola Beverages (P) Ltd vs. CIT in Appeal (civil) No. 3765 of 2007, dated 16/08/2007, once the assessee is not declared as an assessee in default u/s 201 and 201A of the I.T. Act, 1961, in view of 2<sup>nd</sup> proviso to section 40(a)(ia) of the Act, it shall be deemed that the assessee had deducted and paid the taxes of such sum on the date of furnishing return of income by the payee and consequently no disallowances can be made u/s 40(a)(ia) of the Act. We find that the assessee has filed return of income of payee and proved that both the parties have included sum paid by the assessee without deduction of tax at source in the return of income filed for the A.Y. Since the appellant has filed relevant evidences to prove that the payees has considered the said payments in their books of account, in our considered view, as per the 2<sup>nd</sup> proviso of section 40(a)(ia) of the Act, the assessee cannot be treated as an assessee in default and further it shall be deemed that the assessee has deducted and paid advances on said sum paid to the payees on the date of filing of return of income by the payees. This principle is further supported by the decision of the Hon'ble Supreme Court in the case of Hindustan Coco Cola Beverages (P) Ltd vs. CIT (Supra).

10. In view of the above and by respectfully following the decision of the Hon'ble Supreme Court in the case of Hindustan Coco Cola Beverages (P) Ltd vs. CIT (Supra) and also by following the decision of the ITAT Hyderabad Bench in assessee's own case for the A.Y 2014-15, we direct the Assessing Officer to delete the additions made towards payment made to M/s. Prabhata Varta (P) Ltd and Superior Printers (P) Ltd u/s 40(a)(ia) of the I.T. Act, 1961.

11. In the result, appeal filed by the assessee is allowed.

Order pronounced in the Open Court on 29<sup>th</sup> October, 2024.

Sd/- <b>(K. NARASIMHA CHARY)</b> <b>JUDICIAL MEMBER</b>	Sd/- <b>(MANJUNATHA, G.)</b> <b>ACCOUNTANT MEMBER</b>
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Hyderabad, dated 29<sup>th</sup> October, 2024

**Vinodan/sps**

Copy to:

S.No	Addresses
1	AGA Publications Ltd c/o P Murali & Co. CAs, 6-3-655/2/3 Somajiguda, Hyderabad 500082
2	Dy. CIT, Circle 1(1) Hyderabad
3	Pr. CIT – Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

*By Order*