

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्न  
**IN THE INCOME TAX APPELLATE TRIBUNAL 'B' BENCH, CHENNAI**  
श्री जॉर्ज जॉर्ज के, उपाध्यक्ष एवं श्री एस.आर.रघुनाथा, लेखा सदस्य के समक्ष  
**BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT AND**  
**SHRI S.R. RAGHUNATHA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: **3078/CHNY/2024**

निर्धारण वर्ष/Assessment Year: 2010-11

**Assistant Commissioner of  
Income Tax,**  
Circle-2(1)  
Thanjavur.

**City Union Bank Limited,**  
Vs. 24B, Narayana,  
Gandhi Nagar,  
Kumbakonam-612 001.  
**PAN: AAACC-1287-E**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by  
प्रत्यर्थी की ओर से/Respondent by

: Ms. Gouthami Manivasagam, JCIT  
: Mr. S.Ananthan, C.A. &  
Ms.Lalitha Rameswaran, CA

सुनवाई की तारीख/Date of Hearing : 26.02.2025  
घोषणा की तारीख/Date of Pronouncement : 28.02.2025

**आदेश /O R D E R**

**PER GEORGE GEORGE K, VICE PRESIDENT:**

This appeal at the instance of the Department is directed against CIT(A) - NFAC order dated 14.10.2024, passed under section 250 of the Income Tax Act, 1961 (hereinafter called 'the Act'). The relevant Assessment Year is 2010-11

2. The grounds raised are read as under:-

*"1.The order of Ld.CIT(A) is opposed to law on facts and in the circumstances of the case.*

*2. The Ld.CIT(A) erred in deleting the disallowance of Rs.1,35,56,446/- u/s.40(a)(ia) of the Act made by the AO in the assessment order u/s.143(3) r.w.s 147 of the Act dated 22.03.2016 for non-deduction of tax on the interest payments made by the assessee towards VIP deposits.*

*3. The Ld.CIT(A) failed to notice that VIP deposits are in the nature of time deposits only, hence, provisions u/s. 40(a)(ia) of the Act were rightly invoked by the AO.*

*4. For these and such other grounds that may be adduced at the time of hearing and it is prayed that order of the CIT(A) may be reversed and that of the AO be restored."*

3. Brief facts of the case are as follows:-

The reassessment was completed u/s.143(3) r.w.s 147 of the Act vide order dated 23.03.2016. In the said reassessment order, AO had disallowed interest payment of Rs.1,35,56,446/- u/s.40(a)(ia) of the Act for not deducting tax at source.

4. Aggrieved by the order of AO, assessee preferred appeal before First Appellate Authority. The CIT(A) following the ITAT order in assessee's own case [in Department appeal in ITA Nos.1315 & 1316/Chny/2018 dated 09.07.2019 for AYs 2012-13 & 2014-15] decided the issue in favour of the assessee.

5. Aggrieved by the order of CIT(A), Department has preferred this appeal before the Tribunal. The learned DR relied on the grounds raised.

6. The learned AR was duly heard.

7. We have heard rival submissions and perused material on record. We find an identical issue has been considered by the Tribunal in assessee's own case (supra). The Tribunal has decided the issue in favour of the assessee. The relevant finding of the Tribunal in assessee's own case concerning AYs 2012-13 & 2014-15 reads as follows:-

*"35. Ground No.7, challenges the decision of the Id. CIT(A) that interest in respect of recurring deposit cannot be disallowed for non deduction of TDS thereon. The Id. CIT (A) had referred to the relevant provisions of Section 194A of the Act and amendment made by Finance Act, 2015. The decision of the Id. CIT(A) is based on proper appreciation of the legal position. Accordingly, we do not find any merits in the ground No.7 raised by the Revenue. Ground No.7 of the Revenue is dismissed."*

8. In the instant case, since assessment year concerned is 2010-11 and amendment to section 194A of the Act, is applicable for and from AY 2015-16, the said amendment will not have application to concerned assessment year. Therefore, recurring deposit cannot be understood as time deposit and its interest payments are not liable for TDS u/s.194A of the Act during the relevant assessment year.

9. Before concluding, it is to be mentioned Ld.AR in the course of his submissions has sought to support order of CIT(A) on a ground decided against him by referring to Rule 27 of Income Tax

(Appellate Tribunal) Rules, 1963. In this context, Ld.AR had relied on judgement of the Hon'ble Delhi High Court in the case of Sanjay Sawhney Vs. PCIT (2020) (5) TMI 441 (Del). The learned AR submitted the reopening of assessment is invalid, since reasons recorded is on borrowed satisfaction. In this context, Ld.AR relied on two judgements of the Hon'ble Bombay High Court in the cases of Gandhibag Sahakari Bank Ltd. Vs.DCIT (2023) 9 TMI 1344 (Bom) and Sociedade De Fomento Industrial Pvt.Ltd. & Shantilal Khushal Das & Bros P.Ltd Vs. ACIT (2024) 1 TMI 1080 (Bom) in support of his submissions that reopening of assessment is bad in law. However, since we have decided the issue on merits in favour of the assessee, legal contention of the Ld.AR is not adjudicated and is left open.

10. In the result, appeal filed by the Revenue is dismissed.

Order pronounced in the open court on 28<sup>th</sup> February, 2025.

Sd/-

(एस.आर. रघुनाथा)

**(S.R. RAGHUNATHA)**

लेखा सदस्य/ACCOUNTANT MEMBER

चेन्नई/Chennai,

दिनांक/Dated, the 28<sup>th</sup> February, 2025

*DS*

Sd/-

(जॉर्ज जॉर्ज के)

**(GEORGE GEORGE K)**

उपाध्यक्ष /VICE PRESIDENT

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त /CIT, Chennai/Madurai
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF.