



**IN THE INCOME TAX APPELLATE TRIBUNAL
JABALPUR BENCH "SMC", JABALPUR**

BEFORE SHRI KUL BHARAT, VICE PRESIDENT

ITA No. 121/JAB/2024
Assessment Year: 2012-13

Rajsila Stone Crusher Prop Shri Pushpraj Singh, 15 Shastri Nagar, Gopadbanas, Distt-Sidhi-486661.	v.	Income Tax Officer ward-2 Income Tax Office, Kothi Compound, Behind Customer Forum, Rewa- 486001.
PAN:AALFR4762R		
(Appellant)		(Respondent)

Appellant by:	Shri Sapan Usrethe, Advocate.		
Respondent by:	Shri N.M. Prasad, Sr.DR-1		
Date of hearing:	16	09	2025
Date of pronouncement:	17	09	2025

ORDER

PER KUL BHARAT, VICE PRESIDENT.:

This appeal, by the assessee, is directed against the order of the Learned Addl. Commissioner of Income-tax (Appeals)-1, Delhi dated 16.05.2024, pertaining to the assessment year 2012-13. The assessee has raised the following grounds of appeal: -

"1. The Learned Commissioner of Income Tax (Appeal) ADDL/JCIT (A)-1 Delhi was not justified in not admitting the additional documents filed by appellant as these are vital documents and was filed as per rule and was filed to appreciate that appellant didn't get sufficient opportunity during assessment proceeding to submit the certificate before AO and decline to admit the documents only on the basis of remand report and without applying his mind.

2. The Ld. Commissioner of Income Tax (Appeal) ADDL/JCIT (A)-1 Delhi was not justified in appreciating that as per 24 proviso of Section 40a(ia) of the Act the appellant should not be deemed assessee in default and confirming the addition of Rs. 7,24,937/ on the ground that it was inserted w.e.f 01.04.2013 by ignoring all the Judgments relied on by the appellant that it is retrospective in nature.

3. The Ld. Commissioner of Income Tax (Appeal) ADDL/JCIT (A)-1 Delhi was not justified in confirming the addition of Rs.7,24,937 without appreciating that appellant have duly obtained the certificate from the other party and when they have already paid the tax on the receipt no

addition can be made in the hands of appellant and it amounts to double addition and issue was already settled by Hon'ble Apex Court.

4. The appellant craves for leave to amend, add to or omit any ground up to the time of hearing of the appeal.”

2. Briefly stated facts are that the assessee is a manufacturer & trading of gitti and filed his return of income through electronic mode on 28.11.2012, declaring total income of Rs.1,87,510/-. Thereafter, the case of the assessee was taken up for scrutiny under Computer Assisted Scrutiny Selection (CASS). Accordingly, a notice u/s 143(2) of the Income Tax Act, 1961 (“Act”, for short) was issued on 19.08.2013 and duly served upon the assessee on 25.08.2013. In response to the statutory notices, the Ld. Authorized Representative of the assessee attended the assessment proceedings and furnished the detailed as called for. The Assessing Officer during the course of assessment noted that the assessee had debited a sum of Rs.7,24,937/- as ‘*Deferred Interest*’ which was paid to M/s Tata Motor Finance Ltd against the finance of various vehicles and the assessee had failed to deduct the tax at source u/s 194A of the Act. In the absence of any explanation, the Assessing Officer disallowed the expenditure by invoking the provision u/s 40(a)(ia) of the Act and disallowance of Rs.7,24,937/-. Further, the Assessing Officer made disallowances out of the various expenses under the head transportation, travelling, spare parts and repair & machinery to Rs.2,00,000/-. Thus, the Assessing Officer assessed income at Rs.11,12,447/-. Aggrieved by this, the assessee preferred appeal before the Ld. CIT(A) who partly allowed the appeal of the assessee thereby he sustained the addition made by invoking provision of Section 40(a)(ia) of the Act in sum of Rs.7,24,937/- rest of the addition was deleted. Now the assessee is in appeal before this Tribunal.

3. The only effective ground is against sustaining the disallowance of Rs.7,24,937/- made by the Assessing Officer by invoking the provision of Section 40(a)(ia) of the Act. Apropos to the grounds of appeal, the Ld. Counsel for the assessee vehemently argued that the Ld. CIT(A) failed to appreciate the facts as noted in the remand report submitted by the Assessing Officer. He further contended that the assessee had filed application for admitting the additional evidences to submit the copy of Form 26A along with certificate from accountant in terms of 1st proviso of Section 201(1) of the Act from M/s Tata Motor Finance Ltd. He further contended that the Ld. CIT(A) failed to appreciate the facts in right perspective and arbitrarily did not admit the additional evidences. He further reiterated the submissions as made before the Ld. CIT(A) in respect of the issue of disallowance made on account of non-deduction of tax at source.

4. On the other hand, the Ld. Departmental Representative (DR) opposed the submission and supported the orders of the lower authorities. He submitted that the assessee failed to furnish the requisite certificate in terms of Section 201(1) of the Act.

5. I have heard the Ld. Representatives of the parties and perused the material available on record. In the remand report submitted by the Assessing Officer at para no. 4.2 of his remand report, the Assessing Officer has contended that the addition of Rs.7,24,937/- was made u/s 40(a)(ia) of the Act in accordance with law since the assessee failed to deduct the tax at source u/s 194A of the Act in respect of the interest paid to M/s Tata Motor Finance Ltd. It is further stated that nothing prevented the assessee to furnish the certificate from accountant during the

assessment proceedings. So additional evidence filed before the Ld. CIT(A) was stated to be beyond the purview of Rule 46A of the Income Tax Rules, 1962 ("Rules, for short). However, he submitted that in the interest of justice, taking a lenient view the Form No. 26A along with certificate from accountant of payee may be considered. This fact is not rebutted by the Revenue. Considering the facts that payee has given a certificate that the interest so paid by the assessee has been offered by the payee for taxes. Therefore, I am of the considered view that the Ld. CIT(A) ought to have admitted the additional evidences and allowed the relief to the assessee. Thus, looking to the facts of the present case, the Assessing Officer is hereby directed to delete the addition.

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

Order pronounced in the open Court on 17/09/2025.

Sd/-
[KUL BHARAT]
VICE PRESIDENT

DATED: 17/09/2025

Vijay Pal Singh, (Sr. PS)

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT (Judicial)
4. The PCIT
5. DR, ITAT, Jabalpur
6. Guard File

By order

// True Copy//

Assistant Registrar
ITAT, Jabalpur