

**IN THE INCOME TAX APPELLATE TRIBUNAL,
KOLKATA 'SMC' BENCH, KOLKATA**

Before Shri P.M. Jagtap, Accountant Member

**I.T.A. No. 931 /KOL/ 2015
Assessment Year: 2006-2007**

M/s. Gir Movers Pvt. Limited,.....Appellant
10/3, Kashi Nath Mullick Lane,
Kolkata-700 073
[PAN : AABCG 1781 G]

-Vs.-

Deputy Commissioner of Income Tax,.....Respondent
Circle-3, Kolkata,
Aayakar Bhawan,
P-7, Chowringhee Square,
Kolkata-700 069

Appearances by:

Shri Subhabrata Dutta, FCA, for the assessee
Shri Arun Kanti Sinha, JCIT, D.R., for the Department

Date of concluding the hearing : August 18, 2016
Date of pronouncing the order : September 02, 2016

O R D E R

This appeal filed by the assessee is directed against the order of the Id. Commissioner of Income Tax (Appeals)-5, Kolkata dated 18.03.2015, whereby he confirmed the addition of Rs.5,45,892/- made by the Assessing Officer by way of disallowance under section 40(a)(ia) for the failure of the assessee to deduct tax at source from the lorry hire charges of Rs.3,41,889/- and Rs.2,04,003/- paid respectively to Dharambir and Gangaram.

2. At the outset, it is noted that there is a delay of 21 days on the part of the assessee in filing this appeal before the Tribunal. In this regard, the assessee has moved an application seeking condonation of the said delay and keeping in view the reasons given therein, I am satisfied that there was a sufficient cause for the delay on the part of the assessee in

filing this appeal before the Tribunal. I, therefore, condone the said delay and proceed to dispose of the appeal of the assessee on merit.

3. The assessee in the present case is a Company, which is engaged in the business of providing transportation and Logistic Services. The return of income for the year under consideration was filed by it on 30.11.2006 declaring total income of Rs.35,92,859/-. During the course of assessment proceedings, it was noticed by the Assessing Officer that the assessee has made payment of lorry hire charges to Dharambir amounting to Rs.3,41,889/- and Gangaram amounting to Rs.2,04,003/- without deduction of tax at source. He, therefore, invoked the provisions of section 40(a)(ia) and made a disallowance of Rs.5,45,892/- on account of lorry hire charges paid to the said parties. On appeal, the Id. CIT(Appeals) confirmed the said disallowance made by the Assessing Officer under section 40(a)(ia) as the assessee neither appeared at the time of hearing fixed before him nor filed any written submission to dispute the disallowance made by the Assessing Officer under section 40(a)(ia). Aggrieved by the order of the Id. CIT(Appeals), the assessee has preferred this appeal before the Tribunal.

4. I have heard the arguments of both the sides and also perused the relevant material available on record. The Id. counsel for the assessee has submitted that no tax at source was required to be deducted by the assessee from the payment of lorry hire charges made to Dharambir and Gangaram as the said parties had given declarations in the prescribed Form 15-I and the declarations so given were also filed by the assessee with the concerned Commissioner along with the return in Form No. 15-J within the stipulated time. He has placed on record before me a copy of the said return duly acknowledged by the Office of the concerned Commissioner and urged that the matter may be restored to the file of the Assessing Officer for verifying the same. Since the Id. D.R. has not raised any objection in this regard, I set aside the impugned order of the Id. CIT(Appeals) confirming the disallowance of Rs. 5,45,892/- made by the

Assessing Officer under section 40(a)(ia) and restore the matter to the file of the Assessing Officer for deciding the same afresh after verifying the claim of the assessee of having filed the required declarations from the concerned parties in the prescribed form.

5. In the result, the appeal of the assessee is treated as allowed for statistical purposes.

Order pronounced in the open Court on September 02, 2016.

Sd/-

**(P.M. Jagtap)
Accountant Member**

Kolkata, the 2nd day of September, 2016

- Copies to :
- (1) **M/s. Gir Movers Pvt. Limited,
10/3, Kashi Nath Mullick Lane,
Kolkata-700 073**
 - (2) **Deputy Commissioner of Income Tax,
Circle-3, Kolkata,
Aayakar Bhawan,
P-7, Chowringhee Square,
Kolkata-700 069**
 - (3) **Commissioner of Income Tax (Appeals)-5, Kolkata;**
 - (4) **Commissioner of Income Tax- ,**
 - (5) **The Departmental Representative**
 - (6) **Guard File**

By order

*Assistant Registrar,
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata*

Laha/Sr. P.S.