

IN THE INCOME TAX APPELLATE TRIBUNAL “B” BENCH, MUMBAI
BEFORE SHRI R.C. SHARMA, AM AND SHRI SANDEEP GOSAIN, JM

आयकर अपील सं./I.T.A. No.161/Mum/2015
(निर्धारण वर्ष / Assessment Year: 2010-11)

Venkatraman Jambunathan 1902, Gurumahima, Sector-14, Plot No.12, Sanpada, Navi Mumbai-400 705.	बनाम/ Vs.	Income Tax Officer -26(2)-3, Dr. K.G. Mittal Ayurvedic Hospital, 6 th Floor, Charni Road, Mumbai.
स्थायी लेखा सं./जीआइआर सं	./PAN/GIR No.	AACPJ 1296P
(अपीलार्थी /Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओर से / Appellant by	:	None
प्रत्यर्थी की ओर से/Respondent by	:	Shri Neil Philip

सुनवाई की तारीख / Date of Hearing	:	19/07/2016
घोषणा की तारीख / Date of Pronouncement	:	27/07/2016

आदेश / ORDER

Per R.C. SHARMA, A. M.:

This is an Appeal by the Assessee directed against the Order by the Commissioner of Income Tax (Appeals)- 28, Mumbai ('CIT(A)' for short) dated 01.10.2014 for the assessment year (A.Y.) 2010-11.

2. In this appeal assessee is aggrieved for charging of interest u/s 234B and 234C of the Act.

3. Notice was issued to the assessee fixing the appeal on 19th July,2016 the notice was served and acknowledge but nobody attended on behalf of assessee therefore bench decided to dispose the appeal after considering the documents placed on record.

4. We have gone through orders of authorities below and found that assessee is a salaried employee who has filed his return of income claiming exemption on account of HRA receipt. During the course of scrutiny the AO found that assessee has not submitted any documentary evidence to substantiate his claim of HRA. Accordingly exemptions so claimed was decline by AO. Even before CIT(A) the assessee has not produced any evidence to support actual payment of rent so as to entitle him for exemption on account of HRA received from employer. As a result of the disallowance so made AO levied interest u/s 234B and 234C. It was contention of assessee that since salary was liable to deduction of tax at source by the employer no interest u/s 234B and 234C should be charged. We found that the interest has been charged on the shortfall of tax not because of employers failure deduct correct tax at source but because of assessee's failure to substantiate its claim of exemption so confirmed by CIT(A). Assessee has not raised any ground in the appeal so filed before us with regard to decline of exemption of HRA, and has only claimed that no interest u/s 234B and 234C should be charged. We do not find any merit in assessee's ground in so far as interest has been charged because

of failure of assessee to substantiate its claim, and it is not attributable employer's failure to deduct correct tax at source. The case laws cited in the grounds of appeal are not applicable to the facts of the case of the assessee. Accordingly we confirm the action of AO for charging interest 234B and 234C which is as per law.

5. In the result, appeal of the assessee is dismissed.

Order pronounced in the open court on 27 July, 2016

Sd/-
(SANDEEP GOSAIN)

न्यायिक सदस्य / Judicial Member

Sd/-
(R.C. SHARMA)

लेखा सदस्य / Accountant Member

मुंबई Mumbai; दिनांक Dated : 27.07.2016

Ps. Ashwini

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. आयकर आयुक्त(अपील) / The CIT(A)
4. आयकर आयुक्त / CIT - concerned
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard File

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai.