

आयकर अपीलीय अधिकरण, मुंबई न्यायपीठ 'एच मुंबई'।

IN THE INCOME TAX APPELLATE TRIBUNAL " H" BENCH, MUMBAI

सर्वश्री एच.एल. कार्वा अध्यक्ष **एवं**, नरेन्द्र कुमार बिल्लैय्या, लेखा सदस्य के समक्ष

BEFORE SHRI H.L. KARWA, PRESIDENT AND SHRI N.K. BILLAIYA, AM

आयकर अपील सं./I.T.A. No. 1211/Mum/2012

(निर्धारण वर्ष / Assessment Year : 2007-08

The DCIT, Circle 3(1), Aayakar Bhavan, Mumbai-400 020		M/s. Hemlata Investment Pvt. Ltd., 1201/1202, Arcadia Premises, NCPA Road, Nariman Point, Mumbai-400 021
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AAACH 0052Q		
(अपीलार्थी / Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से/ Appellant by: `	Shri Abhinay Kumbhar
प्रत्यर्थी की ओर से/Respondent by :	None

सुनवाई की तारीख / **Date of Hearing** : **24.07.2013**

घोषणा की तारीख / **Date of Pronouncement** : **24.07.2013**

आदेश / ORDER

PER N.K. BILLAIYA, AM:

The Revenue has preferred this appeal against the order of the Ld. CIT(A)-7, Mumbai dt.12.10.2011 pertaining to A.Y. 2007-08.

2. The short grievance of the revenue is that the Ld. CIT(A) erred in directing the AO to allow credit for TDS of Rs. 5,38,560/-.

3. None appeared on behalf of the assessee hence we heard the Ld. Departmental Representative and dispose of this matter ex parte on merit.

4. Facts of the case show that the assessee filed return of income declaring net income of Rs. 24,14,640/- electronically on 21.10.2007. The return was processed u/s. 143(1) of the I.T. Act. The assessee noticed that credit for advance tax of Rs. 1,10,000/- and TDS of Rs. 5,38,560/- was not allowed to the assessee. The assessee moved an application u/s. 154 of the Act dt. 21.7.2010. The AO allowed credit for advance tax of Rs. 1,10,000/- but declined credit for the TDS for Rs. 5,38,560/- received from M/s. Prathiba Shipping Company.

5. Aggrieved by this, the assessee preferred an appeal before the Ld. CIT(A). It was explained that while uploading the e-return, inadvertently, the assessee could not mention the TDS of Rs. 5,38,560/- in the e-return though the credit for the same is allowed by the NSDL and is also reflected in the statement in Form No. 26-AS in department's official website. After considering the facts and submissions of the case, the Ld. CIT(A) was convinced that it is a mistake apparent from record and directed the AO to verify the genuineness of the assessee's claim and after verifying the TDS certificate, the AO should give credit to the assessee in accordance with provisions of law.

6. The Revenue is before us against this findings of the Ld. CIT(A).

7. The Ld. Departmental Representative relied upon the findings of the AO.

8. We have carefully perused the facts on record. We do not find any reason to tamper with the findings of the Ld. CIT(A) as the TDS has been reflected in the official website of the department in the statement in

Form No. 26-AS. We do see any reason why the credit of the same should not be given to the assessee, even if by inadvertence, the assessee could not claim the same in the e-return filed by it. Findings of the Ld. CIT(A) are accordingly confirmed.

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

Order pronounced in the open court on 24.07.2013

आदेश की धोषणा खुले न्यायालय में दिनांक:24.7.2013को की गई ।

Sd/-

(H.L. KARWA)

अध्यक्ष /president

मुंबई Mumbai; दिनांक Dated 24.7.2013

व.नि.स./ RJ , Sr. PS

Sd/-

(N.K. BILLAIYA)

लेखा सदस्य / ACCOUNTANT MEMBER

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
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण,
मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार

(Dy./Asstt. Registrar)

आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai