INCOME-TAX : Where depositors give Form No. 15G/15H to assessee-bank, law empowers assessee to make payment of interest without deduction of tax at source even though assessee has not furnished those Forms to Commissioner because requirement of filing of Form 15G and 15H with prescribed authority viz., Commissioner, is only procedural and that cannot result in a disallowance under section 40a(ia)

[2020] 113 taxmann.com 530 (Bangalore - Trib.)

IN THE ITAT BANGALORE BENCH 'C'

Joint Commissioner of Income-tax

v.

Karnataka Vikas Grameena Bank

N.V. VASUDEVAN, VICE-PRESIDENT
AND B.R. BASKARAN, ACCOUNTANT MEMBER
IT APPEAL NOS. 1391 & 1392 (BANG.) OF 2016 & OTHS.
[ASSESSMENT YEARS 2012-13 & 2013-14]
JANUARY 23, 2020

Pradeep Kumar *for the Appellant.* **Pranav Krishna** and **Ravishankar**, Advs. *for the Respondent.*

ORDER

N.V. Vasudevan, Vice-President - ITA No. 1391/Bang/2016 is an appeal by the Revenue against the order dated 31.3.2016 of Commissioner of Income-tax (Appeals), Hubli relating to the assessment year 2012-13. ITA No.1392/Bang/2016 is an appeal by the revenue against the order dated 24/3/2015 of Commissioner of Income-tax (Appeals), Hubli relating to the assessment year 2013-14. The Assessee has filed cross objection being C.O.107/& 08/Bang/2017 for AY 2012-13 & 2013-14 respectively, against the very same orders of CIT(A) against which the revenue is in appeal. Since common issues are involved in these appeals, as well as cross-objections, these appeals and cross-objections were heard together. We deem it convenient to pass a common order.

1391/Bang/2016 (Revenues' Appeal for Asst. Year 2012-13)

2. Ground Nos.1 & 2 raised by the Revenue by the revenue reads as follows:-

1. Whether on facts & circumstances of the case, is the learned CIT(A) correct in holding that the Assessee is entitled to deduction u/s.36(1)((vii) as well as U/s.36(1)(viia), of the Income Tax Act, 1961, without the restriction imposed by the provisions of Se.36(2)(v) of the Income Tax Act, 1961..
2. Whether on the facts & circumstances and in law, the CIT(A) is correct in allowing deduction /s.36(1(vii) as well as u/s.36(1)(viia) of the Income Tax Act, 1961 thereby allowing the provisions of sections to operate independently and allowing the Assessee double deduction.

3. The Assessee is a rural regional bank engaged in the business of banking. In the course of assessment proceedings u/s 143(3) of the Income-tax Act, 1961 (Act) for AY 2009-10, the AO noticed that the assessee had claimed deduction on account of provision for bad and doubtful debts for a sum of

Rs.247,43,85,350/- u/s.36(1)(viia) of the Income Tax Act, 1961 (Act).

4. The provisions of Section 36(1)(viia)(a) of the Act lays down as follows:

> "(*viia*) in respect of any provision for bad and doubtful debts made by –
>
> (*a*) a scheduled bank not being a bank incorporated by or under the laws of a country outside India] or a co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank, an amount not exceeding seven and one-half per cent of the total income (computed before making any deduction under this clause and Chapter VI-A) and an amount not exceeding ten per cent of the aggregate average advances made by the rural branches of such bank computed in the prescribed manner;
>
> Provided that a scheduled bank or a non-scheduled bank referred to in this sub-clause shall, at its option, be allowed in any of the relevant assessment years, deduction in respect of any provision made by it for any assets classified by the Reserve Bank of India as doubtful assets or loss assets in accordance with the guidelines issued by it in this behalf, for an amount not exceeding five per cent of the amount of such assets shown in the books of account of the bank on the last day of the previous year."

5. There are two deductions allowed under the aforesaid provisions viz., (i) 7.5% of the total income (computed before making any deduction under clause (viia) of Sec.36(1) of the Act towards provisions for bad and doubtful debts; (ii) 10% of the Aggregate average advances made by rural branches of the bank computed in the manner prescribed. The Assessee claimed a sum of Rs.8,09,63,529 towards provision for bad and doubtful debts and a sum of Rs.239,34,21,821/- towards provision for bad and doubtful debts in respect of aggregate average advances made by the Assessee's rural branches, in all an aggregate sum of Rs.247,43,85,350/-. The sum claimed as deduction u/s.36(1)(viia) of the Act had not been debited to the provision for bad and doubtful debts account. The question before the AO was whether the assessee can claim deduction u/s.36(1)(viia) of the Act without debiting profit & Loss account the sum which is considered as provision for bad and doubtful debts. The AO held that deduction u/s 36(1)(viia) cannot be claimed if the sum claimed as deduction has not been debited by the assessee as provision for bad and doubtful debts account in the profit and loss account and accordingly refused to allow the claim of deduction as made by the Assessee.

6. On appeal by the assessee, the CIT(A) allowed the claim of the assessee as made in the revised return of income and in doing so followed the decision of the ITAT, Bangalore Bench in the case of *Syndicate Bank* v. *DCIT*, [2001] 72 TTJ (Bang) 744.

7. Aggrieved by the order of the CIT(A), the revenue has raised ground Nos.1 & 2 before the Tribunal. At the time of hearing it was agreed by the parties that similar issue had come up for consideration before the ITAT in Assessee's own case for AY 2009-10 & 2010-11 in ITA No.673 & 674/Bang/2014 order dated 25.4.2018 and this Tribunal reversed the order of the CIT(A) and held that the deduction u/s.36(1)(viia) of the Act cannot be allowed unless the provision is created by debited to provision for bad and doubtful debts account. The following were the relevant observations of the Tribunal:-

> "7. We have heard the rival submissions. The learned DR submitted that as laid down by the Hon'ble Punjab and Haryana High Court in the case of *State Bank of Patiala* v. *CIT* 272 ITR 53 (P & H), claim for deduction u/s.36(1)(viia) of the Act cannot be greater than the amount debited to the profit and loss account as provision. Our attention was drawn to a decision of the ITAT Bangalore in the case of *Syndicate Bank* v. *DCIT* [2014] 150 ITD 0103 (Bangalore), wherein the Hon'ble ITAT Bangalore Bench preferred to follow the view taken by the Hon'ble Punjab & Haryana High Court in the case of *State Bank of Patiala* (*supra*) rather than the decision of the

Syndicate Bank (supra) of the Bangalore Bench relied upon by the learned CIT(A) in giving relief to the Assessee on this issue. The ld. counsel for the assesses submitted that the decision of the Bangalore Bench of ITAT in the case of Syndicate Bank (Supra) should be followed by the Tribunal in preference to the decision of the Hon'ble Punjab and Haryana High Court in the case of *State Bank of Patiala* (*supra*)and in this regard submitted that the decision of co-ordinate Bench of the Tribunal should be followed in preference to the decision of non jurisdictional High Court decision. In this regard, the ld counsel for the assessee placed reliance on the decision of the Hon'ble Karnataka High Court in the case of *Patil Vijayakumar & Others* v. *Union of India* 151 ITR 48 (Kar).

8. We have considered the rival submission. The provisions of Section 36(1)(viia)(a) of the Act lays down as follows:

"(*viia*) in respect of any provision for bad and doubtful debts made by

(*a*) a scheduled bank not being a bank incorporated by or under the laws of a country outside India] or a co-operative bank other than a primary agricultural credit society or a primary co- operative agricultural and rural development bank, an amount not exceeding seven and one-half per cent of the total income (computed before making any deduction under this clause and Chapter VI-A) and an amount not exceeding ten per cent of the aggregate average advances made by the rural branches of such bank computed in the prescribed manner;

Provided that a scheduled bank or a non-scheduled bank referred to in this sub-clause shall, at its option, be allowed in any of the relevant assessment years, deduction in respect of any provision made by it for any assets classified by the Reserve Bank of India as doubtful assets or loss assets in accordance with the guidelines issued by it in this behalf, for an amount not exceeding five per cent of the amount of such assets shown in the books of account of the bank on the last day of the previous year."

9. In the case of *Syndicate Bank* (*supra*) *78 ITD 103 (Bang.)*, the Bangalore Bench of ITAT took the view that irrespective of the debit to the profit and loss account on account of provision for bad and doubtful debts (PBDD), an Assessee is entitled to 10 percent of the AARA as deduction u/s.36(1)(viia) of the Act. The relevant observations of the Tribunal in the aforesaid decision was as follows:

"20. The learned CIT has also acted under the misconception that deduction under cl. (viia) is related to the actual amount of provision made by the assessee for bad and doubtful debts. The true meaning of the clause, as indicated earlier, is that once a provision for bad and doubtful debts is made by a scheduled bank having rural branches, the assessee is entitled to a deduction which is quantified not with respect to the amount provided for in the accounts, but with respect to a certain percentage of the total income and also a certain percentage of the aggregate average advances made by the rural branches of the bank. In other words, this is a specific deduction given by the statute irrespective of the quantum provided by the assessee in its accounts towards provision for bad and doubtful debts."

10. However the Bangalore Bench of ITAT in the case of *Syndicate Bank* (*supra*) 150 ITD 103 (Bang.) noticed that the ITAT Bangalore Bench in the case of *Canara Bank* in ITA No.58/Bang/2004 dated 9.6.2006 considered in the case of Canara Bank in ITA No.58/Bang/2004 dated 9.6.2006 considered the decision of the ITAT in the case of *Syndicate Bank* 78 ITD 103(Bang) and the decision of the Hon'ble Punjab and Haryana High Court in the case of *State Bank of Patiala* (*supra*) and held that the decision rendered by the Hon'ble High Court has to be followed. The above decision though of a non jurisdiction High Court was followed as the said

decision of the Hon'ble High Court was rendered after the decision in the case of *Syndicate Bank 78 ITD 103 (Bang.).* The Tribunal held that Judicial discipline demands that the Tribunal should follow the later decision which has considered both the decisions on the issue. The Tribunal following the said decision held deduction on account of Provision for Bad and Doubtful Debts u/s.36(1)(viia) of the Act has to be allowed only to the extent such provision is actually debited in the Profit & Loss Account by the Assessee for the relevant previous year. We therefore respectfully following the decision of the Tribunal in the case of *Canara Bank* (*supra*), allow Gr.No.2 to 4 raised by the Revenue and hold that the disallowance made by the AO was proper and the Assessee is entitled to deduction only to the extent PBDD is debited to the P & L A/c. Thus Gr.No.2 to 4 3 raised by the revenue are allowed."

8. Respectfully following the decision of the Tribunal in Assessee's own case we hold that the AO was justified in disallowing the claim for deduction on account of provisions for bad and doubtful debts u/s.36(1)(viia) of the Act as admittedly the Assessee did not debit its profit and loss account any sum towards provision for bad and doubtful debts. We therefore restore the order of the AO and allow Gr.No.1 & 2 raised by the revenue.

9. Ground No.3 raised by the Revenue reads as follows:

"Whether on the facts and circumstances and in law, the CIT(A) is correct in holding that no disallowance of interest could be resorted to u/s.40(a)(ia) of the Income Tax Act, 1961 for non-deduction of tax at source in respect of interest paid during the financial year disregarding the decision of the Hon'ble High Court of Karnataka, Dharwad Bench in ITA Nos.100111-120/2015, ITA No.100012/2016 to ITA Nos.100017/2016 dated 26-02-2016 in the case of Ryatar Sahakari Sakkare Karkane Niyamit, Timmapur, Mudhol Taluq."

10. The issue that arises consideration on Gr.No.3 raised by the revenue is with regard to the disallowance of interest expenses made by the AO u/s 40a(ia) of the Act. In terms of Sec.40(a)(i) of the Act, if tax is deductible at source under Chapter XVII-B of the Act and where it is not so deducted at source on the amount of any interest or royalty, fees for technical services or other sum chargeable under the Act, which is payable outside India or in India to a non-resident, not being a company or to a foreign company, the same shall not be allowed as deduction while computing "Income from Business". In terms of sec.40(a)(ia) of the Act, if tax is deductible at source under Chapter XVII-B of the Act and where it is not so deducted at source on the amount of any interest, commission or brokerage, rent, royalty, fees for professional services or fees for technical services payable to a resident, or amounts payable to a contractor or sub-contractor, being resident, for carrying out any work (including supply of labour for carrying out any work), the same shall not be allowed as deduction while computing "Income from Business". The relevant statutory provisions read as follows:-

"Amounts not deductible.

40. Notwithstanding anything to the contrary in *sections 30* to *38*, the following amounts shall not be deducted in computing the income chargeable under the head "Profits and gains of business or profession",—

(*a*) in the case of any assessee—

(*ia*) any interest, commission or brokerage, rent, royalty, fees for professional services or fees for technical services payable to a resident, or amounts payable to a contractor or sub-contractor, being resident, for carrying out any work (including supply of labour for carrying out any work), on which tax is deductible at source under Chapter XVII-B and such tax has not been deducted or, after deduction, has not been paid during the previous year, or in the subsequent year before the

expiry of the time prescribed under sub-section (1) of *section 200* :

Provided that where in respect of any such sum, tax has been deducted in any subsequent year or, has been deducted in the previous year but paid in any subsequent year after the expiry of the time prescribed under sub-section (1) of *section 200*, such sum shall be allowed as a deduction in computing the income of the previous year in which such tax has been paid.

Explanation.—For the purposes of this sub-clause,—

(*i*) "commission or brokerage" shall have the same meaning as in clause (i) of the Explanation to *section 194H*;

(*ii*) "fees for technical services" shall have the same meaning as in Explanation 2 to clause (vii) of sub-section (1) of *section 9*;

(*iii*) "professional services" shall have the same meaning as in clause (a) of the Explanation to *section 194J* ;

(*iv*) "work" shall have the same meaning as in Explanation III to *section 194C*;

(*v*) "rent" shall have the same meaning as in clause (i) to the Explanation to section 194-I;

(*vi*) "royalty" shall have the same meaning as in Explanation 2 to clause (vi) of sub-section (1) of section 9;"

11. Under Section 194A of the Act which is a section appearing in Part XVIIB of the Act, the Assessee was obliged to deduct tax at source where interest paid is in excess of Rs.10,000/- per annum. During the assessment proceedings it was noticed by the AO that the Assessee has paid total interest of Rs 411,29,54,190/- during the FY 2011-12 (relevant to AY 2012-13). Out of the above a sum of Rs.80,49,49,266/- was interest paid above Rs.10,000/- to each of the depositors but no tax at source was deduction because the depositors had furnished Form No.15G/15H. With regard to non deduction of Tax at source (TDS) on Term Deposits where payment on interest was in excess of Rs. 10,000/- , the Assessee submitted that depositors have sought exemption from TDS on payment of interest by submitting declaration in form no. 15G/H and in those cases, the various branches have not deducted TDS based on 15G /H submitted by the depositors. The AO was however of the view that apart from obtaining declaration in Form No.15G/H, the Assessee ought to have furnished those forms to Commissioner of Income Tax, within the prescribed period. Since the Assessee failed to do so, the AO held that disallowance u/s.40(a)(ia) of the Act has to be made. The AO therefore disallowed interest expense of Rs.80,49,49,266 u/s.40(a)(ia) of the Act.

12. Before CIT(A) the Assessee submitted that once the depositors give Form No.15G/H, the law empowers the Assessee to make payment of interest without deduction of tax at source. The requirement of filing the form so obtained before the prescribed authority within the prescribed period was only a procedural requirement and it was mandatory and for failure to file the form before the prescribed authority no disallowance can be made u/s.40(a)(ia) of the Act. The Assessee in this regard relied on the decisions of the Hon'ble Gujarat High Court in the case of *CIT* v. *Valibhai Khanbhai Manhad* [2012] Taxman 119 (Guj.) & *CIT* v. *Guruvindar Transport* [2013] 215 Taxman 593 (Guj.)laying down the proposition that requirement of filing the form so obtained before the prescribed authority within the prescribed period was only a procedural requirement and it was mandatory and for failure to file the form before the prescribed authority no disallowance can be made u/s.40(a)(ia) of the Act. Apart from the above, the Assessee also contended that as on the last date of the previous year the interest in question had already been paid and "did not remain payable" as on the last date of the previous year. The assessee relied on the decision of the Special Bench of ITAT, Visakhapatnam in the case of *Merilyn Shipping & Transports* v *Addl. CIT 136 ITD 23 (Visakhapatnam)(SB)* and submitted that in a case where

the amounts in question have already been paid as in the last date of the previous year no disallowance can be made u/s 40(a)(ia) of the Act.

13. The CIT(A) deleted the addition by the AO by holding that there was no breach committed by Assessee by not filing Form No.15G/H before the CIT and also on the ground that the sums in question did not remain payable as on the last date of the relevant previous year by following the decision of the Special Bench, Visakapatnam in the case of *Merilyn Shipping & Transports* (*supra*). Aggrieved by the order of the CIT(A), the Revenue has raised Gr.No.3 before the Tribunal.

14. At the time of hearing it was agreed by the parties that similar issue had come up for consideration before the ITAT in Assessee's own case for AY 2010-11 in ITA No.684/Bang/2014 and the Tribunal by its order dated 25.4.2018, held that no disallowance u/s.40(a)(ia) of the Act can be made for non furnishing of form No.15G/H before the CIT. The following were the relevant observations of the Tribunal.

> "39. Before the Tribunal, on the issue of disallowance of a sum of Rs.28,98,43,706, the learned counsel for the Assessee submitted that once the depositors give Form No.15G/H, the law empowers the Assessee to make payment of interest without deduction of tax at source. The requirement of filing the form so obtained before the prescribed authority within the prescribed period was only a procedural requirement and it was mandatory and for failure to file the form before the prescribed authority no disallowance can be made u/s.40(a)(ia) of the Act. For the above proposition the learned counsel for the Assessee relied on the decision of the Hon'ble Karnataka High Court in the case of *Sri Marikamba Transport Co*. 231 Taxman 484 (Karn.) wherein the Hon'ble Karnataka High Court as follows:
>
> "4. The combined reading of these two provisions make it clear that if there is any breach of requirements of Section 194C(3), the question of applicability of Section 40(a)(ia) arises. The exclusion provided in Sub-section of Section 194C from the liability to deduct tax at source under sub-section (2) would be complete, the moment the requirements contained therein are satisfied. **Once, the declaration forms are filed by the subcontractor, the liability of the assessee to deduct tax on the payments made to the sub-contractor would not arise. As we have examined, the sub-contractors have filed Form No. 15-1 before the assessee. Such being the case, the assessee is not required to deduct tax under Section 194C(3) of the Act and to file Form No. 15J. it is only a technical defect as pointed out by the Tribunal in not filing Form No.15J by the assessee. This matter was extensively considered by the ITAT, Ahmedabad Bench in *Valibhai Khanclbai Mankad* case (*supra*) and the said Judgment has been upheld by in High Court of Gujarat in *CIT* v. *Valibhai Khanbhai Mankad* 120131 216 Taxman 18/28 taxmann.com 119 wherein it is held that once the conditions of Section 194C(3) were satisfied, the liability of the payee to deduct tax at source would cease and accordingly, application of Section 40(a)(ia) would also not arise.** The Tribunal, placing reliance on the judgment of the ITAT, Ahmedabad Bench, has dismissed the appeal filed by the Revenue. We agree with the said propositions and hold that filing of Form No. 151/J is only directory and not mandatory."
>
> (emphasis supplied)
>
> 40. The learned DR relied on the order of the CIT(A). He further pointed out that as far as the payments to other exempted person is concerned, the AO in his order has made the following observations:-
>
> "9.3. During the course of hearing the Assessee was asked to furnish the respective evidences. Apart from the questionnaire issued u/s.142(1) dated 24.1.2013, the Assessee was asked to furnish the necessary evidences in support of its claim for not invoking provisions of Sec. 40a(ia), during

the hearings on 26.02.2013, 06.02.2013, 07.03.2013 and 11.03.2013. However, the assessee could not produce any such evidences Hence the amount which is liable for deduction of TDS amounting to Rs 28,98,43,076/- but no TDS was done because of stated submissions of form 15G/15H by the recipient or interest claimed to be paid to the Government , now cannot be allowed as deduction. The non submissions of 15G/15H before the Prescribed authority, amounts to, all together, non - deduction of TDS, where it ought to have been done, thus inviting the disallowance of the same u/s 40a (ia) of IT Act. Like so the claim of interest payment stated to be made to Government was not properly supported with the evidences thus inviting the disallowance of the same u/s 40a (ia) of IT Act."

9.4. Thus an amount the Rs 12,98,57,409 for non-deduction of TDS on the interest paid exceeding Rs 10,000/- and an amount of Rs 28,98,43,076/- where no 15G/15H forms were stated to be submitted or interest stated to be paid to Government Department, is disallowed u/s 40a(ia) of IT Act. Thus the total amount of Rs. 41,97,00,485/- disallowed and added back to the income returned by the assessee."

41. Without prejudice to his reliance on the order of the AO, the ld DR submitted that the disallowance to the extent of payment to government should be set aside to the AO and the assessee should be asked to furnish the required details.

42. We have given a careful consideration to the rival submissions. As far as disallowance of interest of a sum of Rs.28,98,43,076/- is concerned to the extent of the disallowance relates to interest paid to persons furnished Form 15 G and Form 15 H to the assessee, no disallowance can be made u/s 40a(ia) of the Act as held by the Hon'ble Karnataka High Court in the case of *Sri Marikamba Transport Co.*, (*Supra*). The requirement of filing of Form 15G and 15H with the prescribed authority viz., CIT is only procedural and that cannot result in a disallowance u/s 40a(ia) of the Act. To the extent that payment of interest relates to the Government and the exempted category of persons, the assessee is directed to furnish required details to the AO and the AO will consider the claim of the assessee after affording opportunity of being heard to the assessee."

15. The decision cited by the revenue in the grounds of appeal is with regard to the action of the CIT(A) in the deleting the disallowance u/s.40(a)(ia) of the Act on the ground the sums in question did not remain payable as on the last date of the relevant previous year and by following the decision of the Special Bench, Visakapatnam in the case of *Merilyn Shipping & Transports* (*supra*). As we have already seen the CIT(A) appeal deleted the disallowance u/s.40(a)(ia) of the Act on two grounds viz.,

(*i*) once the depositors give Form No.15G/H, the law empowers the Assessee to make payment of interest without deduction of tax at source. The requirement of filing the form so obtained before the prescribed authority within the prescribed period was only a procedural requirement and it was mandatory and for failure to file the form before the prescribed authority no disallowance can be made u/s.40(a)(ia) of the Act, and

(*ii*) the sums in question did not remain payable as on the last date of the relevant previous year and by following the decision of the Special Bench, Visakapatnam in the case of *Merilyn Shipping & Transports* (*supra*). The decision cited by the revenue in the grounds of appeal is only in the context of the second ground on which the CIT(A) allowed relief to the Assessee.

As far as the first ground on which CIT(A) gave relief to the Assessee is concerned, that ground is supported by the decision of the Hon'ble Karnataka High Court in the case of *Sri Marikamma Transport Co*.(*supra*) and that basis on which CIT(A) gave relief to the Assessee still holds good.

16. Respectfully following the decision of the Tribunal in Assessee's own case we hold that the CIT(A) was justified in AO was justified in deleting the disallowance of interest expenses u/s.40(a)(ia) of the Act, to the extent of the disallowance relates to interest paid to persons furnished Form 15 G and Form 15 H to the assessee as no disallowance can be made u/s 40a(ia) of the Act as held by the Hon'ble Karnataka High Court in the case of Sri Marikamba Transport Co., (Supra). The requirement of filing of Form 15G and 15H with the prescribed authority viz., CIT is only procedural and that cannot result in a disallowance u/s 40a(ia) of the Act. Consequently, we uphold the order of CIT(A) and dismiss Gr.No.3 raised by the Revenue.

17. In the result, the appeal by the Revenue is partly allowed.

ITA No.1392/Bang/2016 (Revenues' Appeal for Asst. Year 2013-14)

18. As far as AY 2013-14 is concerned, the grounds of appeal raised by the revenue are identical to Grounds raised in the appeal for AY 2012-13. The grounds raised in the appeal for AY 2013-14 read thus:

"1. Whether on facts & circumstances of the case, is the learned CIT(A) correct in holding that the Assessee is entitled to deduction u/s.36(1)((vii) as well as U/s.36(1)(viia), of the Income Tax Act, 1961, without the restriction imposed by the provisions of Se.36(2)(v) of the Income Tax Act, 1961..

2. Whether on the facts & circumstances and in law, the CIT(A) is correct in allowing deduction /s.36(1(vii) as well as u/s.36(1)(viia) of the Income Tax Act, 1961 thereby allowing the provisions of sections to operate independently and allowing the Assessee double deduction.

3. "Whether on the facts and circumstances and in law, the CIT(A) is correct in holding that no disallowance of interest could be resorted to u/s.40(a)(ia) of the Income Tax Act, 1961 for non-deduction of tax at source in respect of interest paid during the financial year disregarding the decision of the Hon'ble High Court of Karnataka, Dharwad Bench in ITA Nos.100111- 120/2015, ITA No.100012/2016 to ITA Nos.100017/2016 dated 26-02-2016 in the case of Ryatar Sahakari Sakkare Karkane Niyamit, Timmapur, Mudhol Taluq."

19. It is not disputed that the facts and circumstances of the case and the basis on which addition was made by the AO and relief was allowed by the CIT(A) is same in AY 2013-14 except for change in the sum added/disallowed. In the circumstances, we follow the decision rendered in AY 2012-13 and allow Gr.No.1 & 2 raised by the Revenue and dismiss Ground No.3 raised by the revenue in AY 2013-14.

20. In the result the appeal is Partly allowed.

21. As far as the Cross-objections of the Assessee are concerned, they are in support of the relief allowed to the Assessee on the disallowance made by the AO u/s.40(a)(ia) of the Act. Since the relevant ground of appeal of the revenue is dismissed, we are of the view that there is no necessity to decide the grounds raised in the cross objection, though we find that similar objections as is sought to be raised in the cross-objection was raised by the Assessee in its appeal for AY 2010-11 in ITA No,.684/Bang/2014 order dated 25.4.2018 and dismissed. Hence, the cross-objections are dismissed as infructuous.

22. In the combined result, the appeals by the revenue are partly allowed, while the cross-objections are dismissed.

■■