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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ ITA 404/2016

PR CIT -7

..... Appellant

Through: Mr. P. Roychaudhury, Sr. St. Consel and
Mr. Vibhooti Malhotra, Junior Standing Counsel.

versus

rites LTD

..... Respondent

Through: Mr. R.P. Garg and Kr. K.N. Ahuja,
Advs.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

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06.12.2016

1. The ground urged by the revenue in this appeal under Section 260-A of the Income Tax Act relates to the interest on the mobilization amount claimed by the assessee. It is contended that recognition of revenue by the assessee was improper and having regard to the hybrid method of accounting adopted over the years, the interest amount had to be treated as income.

2. The facts are that the assessee had awarded a contract to M/s. RPCL (hereinafter 'RPCL'). It had, as part of the agreement, paid to RPCL a mobilization advance. The question before this Court is with regard to interest accrued upon such mobilization advance. Apparently, the RPCL claimed that it completed the contract, the assessee, however, disputed that position and terminated the claim. The RPCL made a demand for arbitration. This led to a claim by the

assessee to the tune of ₹22195.43 lac. The RPCL counter-claimed to the tune of ₹46910.00 lac. Both A.O. and the CIT(A), rejected the assessee's contention holding that the amount had accrued and had to be reflected as income. The ITAT, however was of the opinion that the entitlement had not crystallized having regard to the contentious nature of the matter even though the assessee had adopted hybrid method of accounting. The relevant findings of the ITAT are as follows:

“We have perused the relevant pages of the paper book and are convinced that as the amount has not been crystallized the same cannot be treated as income in the hands of the assessee. The assessee being a Government undertaking has been following a system of accounting as per which all items of income and expenditure are treated as accrued only after the approval is granted by competent authority. This system has been followed consistently in respect of both income and expenditure items which has not been disputed by the Revenue in any of the preceding years. Therefore, we are of the considered opinion that the addition confirmed by the Id. CIT(A) is without any basis and needs to be deleted. Accordingly, this ground of the assessee is allowed.”

3. It is urged by the revenue that the ITAT's reasoning is flawed. The learned counsel contends that rights of the assessee to receive the amount from RPCL had accrued which meant that appropriate recognition of the revenue had to be reflected. It was submitted that arbitrability of the dispute was questioned as there could be no doubt that under the contract, the mobilization advance was given by the

assessee and therefore it was entitled to the interest.

4. It is evident from the above discussion that the entire matter is contentious in the sense that the third party - RPCL - which was awarded the contract claimed that it had performed it in accordance with the agreement with the parties. The assessee, however, felt otherwise and terminated the contract. There could be several likely outcomes in these proceedings – many of them possibility impinging upon the rights of the assessee to receive advance amount itself along with interest either in whole or in part. In these circumstances, the ITAT's conclusions that there was no crystallized right to receive any particular amount or amounts, cannot be faulted.

No question of law arises. The appeal is, therefore, dismissed.

S. RAVINDRA BHAT, J

NAJMI WAZIRI, J

DECEMBER 06, 2016/acm