

IN THE INCOME TAX APPELLATE TRIBUNAL “D” BENCH : KOLKATA

[Before Hon’ble Shri M.Balaganesh, AM & Shri S.S.Viswanethra Ravi, JM]

I.T.A Nos. 301-302 & 304-305/Kol/2016

Assessment Years : 1993-94,2001-02,2011-12 &2012-13

M/s Rydak Syndicate Ltd.

-vs-

DCIT, SPL.RG-2, Kolkata

[PAN: AABCR 2656 P]

(Appellant)

(Respondent)

For the Appellant : Shri A.K. Tulsian, FCA

For the Respondent : Shri Soumyajit Dasgupta, Addl. CIT

Date of Hearing : 26.12.2017

Date of Pronouncement : 05.01.2018

**ORDER**

**Per M.Balaganesh, AM**

1. These appeals are preferred by the Assessee against the separate orders of the Learned Commissioner of Income Tax (Appeals)- 2, Kolkata [in short the ld CITA] vide Appeal Nos. 256/CIT(A)-2/2014-15, 349/CIT(A)-2/2014-15, 337/CIT(A)-2/2014-15, 1383/CIT(A)-2/Cir-4/2014-15 dated 04.11.2015, 03.11.2015,01.12.2015 and 11.12.2015 respectively against the separate orders passed by the DCIT, Spl. Range-2, Kolkata (in short “the Ld. AO) u/s 143(3)/147 of the Income Tax Act, 1961 (in short “the Act”) dated 20.03.1996, 20.01.2006, 22.03.2013 and 11.08.2014 for Asst Years 1993-94, 2001-02, 2011-12 and 2012-13 respectively. All these appeals are taken up together and disposed off by this common order for the sake of convenience.

**ITA No. 301/Kol/2016 – Asst Year 1993-94 – Assessee Appeal**

2. The first issue to be decided in this appeal is as to whether the Id CITA was justified in upholding the addition made towards prior period expenditure in the sum of Rs 10,62,008/- towards interest paid to supplier, in the facts and circumstances of the case. The Id AR stated that the correct figure involved in this dispute is only Rs 10,62,008/- as against Rs 15,92,146/- mentioned in the grounds of appeal, for which he had sought for modification of the same. The Id AR also made an endorsement to the changed figures in the grounds of appeal filed before us. Hence we proceed to adjudicate this issue only in respect of the figure of Rs 10,62,008/- towards interest paid to supplier M/s Suresh Brothers & Co. (P) Ltd.

2.1. The brief facts of this issue is that the assessee debited a sum of Rs 10,62,008/- towards interest paid to supplier M/s Suresh Brothers & Co. (P) Ltd who supplied stores to the assessee's tea garden. The Id AO observed that the same was debited towards delayed payment of interest made to M/s Suresh Brothers & Co. (P) Ltd. From the perusal of the bill raised by M/s Suresh Brothers & Co. (P) Ltd dated 3.11.1992, the Id AO noticed that the supplier had raised a bill claiming interest in respect of supplies made upto 31.3.1992 amounting to Rs 10,62,008/-. Accordingly the Id AO sought to disallow the same on the ground that the same does pertain to Asst Year 1992-93 and not Asst Year 1993-94, being the year under appeal as the assessee is following mercantile system of accounting. The Id AO observed that the assessee pursuant to mercantile system of accounting followed by it, ought to have provided for the said interest in its books and claimed the same as deduction in Asst Year 1992-93. Accordingly, the Id AO disallowed the same as expenditure not pertaining to the year under appeal. This action of the Id AO was upheld by the Id CITA. Aggrieved, the assessee is in appeal before us on the following ground:-

*1. a) That the Ld. CIT(A) erred in upholding the addition of Rs. 10,62,007/- made by the Ld. AO on account of interest paid to suppliers. The addition is unjustified and the same needs to be deleted.*

2.2. We have heard the rival submissions and perused the materials available on record. The facts stated hereinabove remain undisputed and hence the same are not reiterated for the sake of brevity. It is not in dispute that the assessee had indeed made payment of interest for delayed payment of trade dues to supplier M/s Suresh Brothers & Co. (P) Ltd to the tune of Rs 10,62,008/- during the year under appeal. From the perusal of the pages 25 to 27 of the paper book, we find that the said supplier had raised a bill dated 3.11.1992 together with the reasons for raising an invoice by way of a letter dated 3.11.1992, wherein claim of interest in respect of supplies made upto 31.3.1992 was made to the tune of Rs 10,62,008/-. The genuineness of the said payment of interest on delayed payment to suppliers has not been disputed by the revenue. We find that the said supplier had duly accounted for the interest income to the tune of Rs 10,62,008/- in its returns for the Asst Year 1993-94 and offered the same to tax. This is enclosed in page 25 of the paper book wherein the said supplier had duly confirmed this fact by way of a letter. We find that the assessee is a public limited company and is accordingly mandated to close its annual accounts and hold the annual general meeting on or before 30<sup>th</sup> sept 1992. In the instant case, the bill dated 3.11.1992 was received from the said supplier after the date of the annual general meeting and hence the same could not have been anticipated by the assessee in order to make a provision for interest on accrual basis in Asst Year 1992-93. In any case, it is not in dispute that the assessee had not claimed this interest amount of Rs 10,62,008/- in Asst Year 1992-93. The claim of the assessee that the liability to pay the interest itself accrued only pursuant to the bill dated 3.11.1992 raised by the said supplier and the same was duly paid by the assessee before the end of the previous year ending 31.3.1993. Moreover, we are informed that the tax rates for domestic companies for both Asst Years 1992-93 and

1993-94 were one and the same ie 45% tax plus surcharge of 15%. Hence there is no loss that could be attributed to the exchequer because of this claim of expenditure by the assessee as the business expediency of the said expenditure and its genuineness had not been doubted by the revenue at any point of time. It is not in dispute that the said payment of interest on delayed payment to supplier is a legitimate business expenditure. Our finding is further sanctified by the ratio laid down by the *Hon'ble Delhi High Court in the case of CIT vs Jagatjit Industries Ltd reported in (2011) 339 ITR 382 (Del)*. In view of these facts, we have no hesitation in directing the Id AO to delete the disallowance made on account of prior period expenses of Rs 10,62,008/- . Accordingly, the Ground No. 1 raised by the assessee is allowed for Asst Year 1993-94.

3. The next issue to be decided in this case is as to whether the Id CITA was justified in upholding the disallowance of interest paid on borrowed funds on the ground that the assessee had diverted the borrowed funds for non-business purposes to the tune of Rs 3,09,095/- , in the facts and circumstances of the case.

3.1. The brief facts of this issue is that the Id AO observed that the assessee had given interest free loans to the following parties :-

Nandanam Estates Pvt Ltd	- Rs 2,40,000/-
Sripadam Investments Ltd	- Rs 4,87,160/-
Sangam Investments Ltd	- Rs 9,90,036/-
	----- Rs 17,17,196/-

The Id AO show caused the assessee as to why the proportionate interest should not be disallowed to the extent of interest free advances given by it , as on one hand , it is paying interest on its loans and on the other hand, it is giving interest free loans to various parties. The Id AO observed that these advances were given out of cash credit

account of the assessee on which interest is suffered and for want of proper explanation from the assessee, he proceeded to disallow the proportionate interest u/s 36(1)(iii) of the Act to the tune of Rs 3,09,095/- by applying rate of interest at 18% on Rs 17,17,196/-.

3.2. Before the Id CITA, the assessee contended that it had sufficient own funds as could be evident from the balance sheet of the assessee and placed reliance on the various decisions of Jurisdictional High Court and co-ordinate bench decision of this tribunal in assessee's own case for the Asst Years 1994 95 and 1996-97. The Id CITA however did not heed to the contentions of the assessee and upheld the action of the Id AO. Aggrieved, the assessee is in appeal before us on the following ground:-

*2. That the Ld. CIT(A) erred in upholding the impugned addition on account of notional interest of Rs. 3,09,095/-. The interest free advances were given out of own fund. Therefore, charging of notional interest is unjustified under the facts and circumstances of the case and the addition made in this regard needs to be deleted.*

3.3. We have heard the rival submissions. We find from the perusal of the balance sheet of the assessee company which is part of the paper book filed before us, that the assessee company is having sufficient own funds in the form of share capital and reserves and surplus to the tune of Rs 9,02,06,003/- which is higher than the loans taken by the assessee company. Hence the presumption could be drawn in favour of the assessee that the interest free funds were given out of the own funds available with the assessee company as per the ratio laid down in the following decisions :-

- a) Hon'ble Jurisdictional High Court in the case of CIT vs Britannia Industries Ltd reported in 280 ITR 525 (Cal)
- b) Hon'ble Bombay High Court in the case of CIT vs Reliance Utilities & Power Ltd reported in 313 ITR 340 (Bom)

In view of the aforesaid facts and respectfully following the ratio decidendi of the aforesaid decisions , we have no hesitation in deleting the disallowance of interest on proportionate basis in the sum of Rs 3,09,095/- . Accordingly, the Ground No. 2 raised by the assessee is allowed for Asst Year 1993-94.

4. The last issue to be decided in this appeal for Asst Year 1993-94 is as to whether the Id CITA was justified in upholding the action of the Id AO in not allowing the claim of bad debts written off in respect of debts pertaining to Jute division of the assessee in the facts and circumstances of the case.

4.1. The brief facts of this issue is that the assessee claimed a sum of Rs 16,43,829/- towards bad debts written off in respect of debts pertaining to its erstwhile Jute division . The Id AO observed that during the year that no business was carried out in Jute division and that the said division had been closed long back. Moreover, the assessee had not proved the fact of income being offered in respect of those debts in terms of section 36(20) of the Act in order to justify the claim of deduction towards bad debts written off u/s 36(1)(vii) of the Act. Accordingly, the Id AO proceeded to disallow the claim of bad debts written off in the sum of Rs 16,43,829/- in the assessment. This action of the Id AO was upheld by the Id CITA. Aggrieved, the assessee is in appeal before us on the following ground:-

*3. That the Ld. CIT(A) erred in confirming the action of the Id. AO in not allowing the set off of loss of jute division of the assessee. The jute division is one of the many divisions of the assessee business and loss incurred by the jute division needs to be allowed.*

4.2. We have heard the rival submissions. We find that the assessee during the year under consideration was engaged in the business of cultivation, manufacturing and sale of tea. The claim of bad debts written off in respect of debts pertaining to Jute division (which was closed long back) was disallowed on the ground that the

assessee could not produce any evidence to prove that it had offered income in terms of section 36(2) of the Act at the time of creating such debt in earlier years. There is no dispute that the assessee had actually written off the sum of Rs 16,43,829/- as bad debts treating the same as irrecoverable in its books of accounts. Hence once the conditions of section 36(2) are complied with, the assessee would be entitled for deduction u/s 36(1)(vii) of the Act. Since the Jute division was closed long back, the assessee could not adduce evidence in this regard except placing reliance on the note attached in the Audited Financial Statements of the assessee company. We find from Note No. 8 of Notes on Accounts to the audited financial statements of the assessee company, reads as under:-

*8. Sundry Debtors included Rs 2,92,65,884/- representing old balances out of which Rs 16,43,829/- has been written off during the year and balance being still considered good and recoverable in the opinion of the management has been treated accordingly in the accounts.*

This note clearly proves that out of the total debtors of the assessee company in the sum of Rs 5,92,08,719/- as on 31.3.1993, a sum of Rs 2,92,65,884/- represents old balances, out of which debts representing Rs 16,43,829/- had been written off in the books of accounts as bad debt. Hence it clearly proves that the same represents trade debts of the assessee. Since the debt is reflected under sundry debtors, it goes without saying that the income was offered in the earlier years and unrealized portion of the debt is reflected under the head 'Sundry Debtors' in the balance sheet. The above note also impliedly proves that the assets of jute division representing sundry debtors had been merged with the sundry debtors of tea division of the assessee company. In view of these facts, we hold that the assessee company had indeed complied with the requirements of section 36(2) of the Act in the instant case and is accordingly entitled for deduction u/s 36(1)(vii) of the Act. Accordingly, the Ground No. 3 raised by the assessee is allowed for Asst Year 1993-94.

**ITA No. 302/Kol/2016 – Asst Year 2001-02**

5. The first issue to be decided in this appeal is as to whether the Id CITA was justified in upholding the disallowance of Rs 3,02,480/- towards provision for leave encashment in the facts and circumstances of the case.

5.1. The brief facts of this issue is that the assessee made provision for leave encashment to the tune of Rs 3,02,480/- and claimed the same as deduction which was sought to be disallowed by the Id AO by applying the provisions of section 43B(f) of the Act. According to Id AO, since the said claim represents only provision and not actually paid, the same is liable for disallowance u/s 43B of the Act. This action of the Id AO was upheld by the Id CITA. Aggrieved, the assessee is in appeal before us on the following ground:-

*1. That the Ld. CIT(A) erred in confirming the addition of Rs. 3,02,480/- towards provision for Leave encashment. The said provision was made after making actual valuation of the liabilities. The action of the Ld. AO in making the addition and Ld CIT(A) in confirming the addition is wrong and the addition needs to be deleted.*

5.2. We have heard the rival submissions. We find that the provisions of section 43B(f) of the Act was introduced in the statute by the Finance Act 2001 with effect from 1.4.2002 (i.e from Asst Year 2002-03 onwards) wherein the claim of deduction towards leave encashment could be allowed only on payment basis. This provision cannot be made applicable for Asst Year 2001-02 which is the year under consideration. Hence the basis of disallowance by applying provisions of section 43B of the Act is incorrect in the instant case. There is no dispute that the assessee had made provision based on rational workings towards provision for leave encashment . Hence the assessee would be entitled for deduction on provision basis by placing reliance on the decision of the Hon'ble Supreme Court in the case of

Bharat Earth Movers Ltd reported in 245 ITR 428 (SC). Accordingly, the Ground No. 1 raised by the assessee for Asst Year 2001-02 is allowed.

6. The next issue to be decided in this appeal is as to whether the Id CITA was justified in upholding the action of the Id AO in not allowing the set off of business loss of packaging division of the assessee with the business income of the assessee in the facts and circumstances of the case.

6.1. The brief facts of this issue is that the assessee claimed loss of Rs 20,78,182/- in respect of its packaging division which is merged in the overall profit and loss account of the assessee company comprising of various divisions. The Id AO observed that since the assessee could not justify the claim of loss of packaging division by producing books of accounts with evidences in this regard, the same is liable to be disallowed. Accordingly he disallowed the claim of Rs 20,78,182/- in the assessment. The Id AO also made independent disallowance packaging division towards statutory dues such as provident fund, pension fund etc u/s 43B of the Act based on the reporting made in the Tax Audit Report of the assessee company. This addition independently made was to the tune of Rs 13,73,901/- which is included in the total disallowance towards statutory dues of Rs 86,34,152/-.

6.2. Before the Id CITA, the assessee submitted the unaudited profit and loss account of packaging division furnishing the details of purchases, sales, statutory dues of packaging division among other items pertaining to that division. It was also pleaded that since separate disallowance towards statutory dues was already made by the Id AO, the disallowance of total loss of packaging division would amount to double addition to the tune of Rs 13,73,901/-. This was not considered by the Id CITA and action of the Id AO was upheld by the Id CITA. Aggrieved, the assessee is in appeal before us on the following ground:-

*2. That the Ld. CIT(A) grossly erred in confirming the action of the ld. AO in not allowing the set off of business loss of the Packaging Division of the assessee with the business income of the assessee. The action of the Ld. CIT(A) in upholding the same is unjustified under the facts and circumstances of the case. The loss from packaging division needs to be allowed to be set off from the business income of the assessee.*

6.3. We have heard the rival submissions. The ld AR argued that double addition has been made by the ld AO to the tune of Rs 13,73,901/- representing statutory dues of packaging division. According to him, the ld AO had independently made addition towards statutory dues u/s 43B of the Act to the tune of Rs 86,34,152/- , out of which a sum of Rs 13,73,901/- pertains to packaging division. This sum is also included as an item of expenditure while preparing the profit and loss account of packaging division, wherein the loss was claimed at Rs 20,78,182/-. We find that with regard to the filing of separate profit and loss account of packaging division, the same was not considered by the lower authorities. It is not in dispute that the assessee had prepared consolidated financial statements comprising of various divisions such as Jute, Packaging and Tea division. There is no requirement in the law or under any other statute for maintenance of division wise financial statements by the assessee. The ld AR stated that the assessee is not claiming any benefit of deduction or exemption under the provisions of the Act in respect of any of its divisions warranting maintenance of unit wise financial statements. We hold that once the separate profit and loss account of packaging division was filed by the assessee, the same ought to have been examined by the revenue which has not been done in the instant case. Hence in the interest of justice and fairplay, we deem it fit and appropriate to remand this issue to the file of the ld AO with a direction to examine the profit and loss account of packaging division of the assessee company and decide the allowability of loss of packaging division afresh, in accordance with law. The aspect of double addition would have to be addressed by the ld AO while disposing of this set aside

assessment. Accordingly, the Ground No. 2 raised by the assessee for Asst Year 2001-02 is allowed for statistical purposes.

7. The Ground No. 3 raised by the assessee was stated to be not pressed by the Id AR at the time of hearing. Accordingly the same is dismissed as not pressed.

**ITA No. 304&305/Kol/2016 for Asst Years 2011-12 & 2012-13 respectively**

8. The only common issue involved in these two appeals of the assessee for the Asst Years 2011-12 and 2012-13 is as to whether the Id CITA was justified in upholding the action of the Id AO by not treating the receipt of other income as composite income of the assessee, in the facts and circumstances of the case.

8.1. The brief facts of this issue is that the assessee is engaged in the business of cultivation, manufacturing and marketing of tea. The Id AO observed that the assessee company had earned the following other incomes for the Asst Years 2011-12 and 2012-13 :-

<u>Nature of Income</u>	<u>AY 2011-12</u>	<u>AY 2012-13</u>
Sale of Tea Waste	18,21,034	17,72,650
Sale of Assets	40,642	4,42,367
Rent Realised	81,200	29,700
Tea Claim Realised	7,01,601	16,91,679
Sundry Receipts	10,11,173	72,42,935
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Total	36,55,650	1,11,79,331
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The Id AO observed that for the aforesaid incomes, Rule 8(1) is not applicable and hence not composite income and the same would get separately taxed as income from other sources. Accordingly, the Id AO recomputed the composite income from

growing and manufacturing of tea after ignoring the aforesaid receipts for both the years under consideration. The assessee however contested before the Id CITA only in respect of Rs 36,15,008/- for the Asst Year 2011-12 and did not contest for the disallowance from composite income of Rs 40,642/- representing sale of assets . However, the same item was contested before the Id CITA for the Asst Year 2012-13 by the assessee. The Id CITA stated that these items were agreed by the assessee to be treated as separate item under income from other sources and hence for agreed additions, no appeal would lie before him. Aggrieved, the assessee is in appeals before us on the following grounds:-

**I.T.A. No. 304/Kol/2016 for the Assessment years: 2011-12**

*1.a) That the Ld. CIT(A) erred in upholding the action of the Ld. AO by not treating the receipt of Rs. 36,15,008/- as composite income of the assessee. The receipt from sale of tea waste, rent realized, other sundry receipts are liable to be treated as composite income. Therefore, the action of the ld. AO in making the addition and Ld. CIT(A) in confirming the addition is unjustified. Hence, the receipt from sale of shade trees should be treated as composite income.*

*(b) That the Ld. CIT(A) erred in upholding the impugned addition. He failed to take cognizance of the fact that an assessment has to be made in accordance with law after allowing necessary deductions/exemptions even if the same was not claimed by the assessee. Therefore, the action of the ld. AO and Ld. CIT(A) is not justified under the facts and circumstances of the case. Hence, the addition needs to be deleted.*

*2. That the petitioner craves leave to add, alter, amend or withdraw any ground/s of appeal before or at the time of hearing.*

**I.T.A. No. 305/Kol/2016 for the Assessment years: 2012-13**

*1.a) That the Ld. CIT(A) erred in upholding the action of the Ld. AO by not treating the receipt of Rs. 1,11,79,331/- as composite income of the assessee. The receipt from sale of tea waste, rent realized, other sundry receipts are liable to be treated as composite income. Therefore, the action of the ld. AO in making the addition and Ld. CIT(A) in confirming the addition is unjustified. Hence, the receipt from sale of shade trees should be treated as composite income.*

*(b) That the Ld. CIT(A) erred in upholding the impugned addition. He failed to take cognizance of the fact that an assessment has to be made in accordance with law after allowing necessary deductions/exemptions even if the same was not claimed by the assessee. Therefore, the action of the ld. AO and Ld. CIT(A) is not justified under the facts and circumstances of the case. Hence, the addition needs to be deleted.*

*2. That the petitioner craves leave to add, alter, amend or withdraw any ground/s of appeal before or at the time of hearing.*

8.2. We have heard the rival submissions. The ld AR argued that there is no estoppel against the statute and hence merely because a particular receipt was agreed to be treated in a manner favourable to the revenue during the course of assessment proceedings, the ld AO cannot take advantage of the ignorance of the assessee . He argued that it is the duty of the assessee primarily to tax the true and real income of the assessee. In support of his various propositions, he placed reliance on the decisions of Hon'ble Jurisdictional High Court in the case of SAIL DSP VR Employees Association 1998 vs Union of India & Ors reported in (2003) 262 ITR 638 (Cal) and Maynak Poddar (HUF) vs WTO reported in (2003) 181 CTR (Cal) 362 . He further placed reliance on the decision of the co-ordinate bench of this tribunal in the case of Apeejay Tea Limited vs DCIT in ITA No. 1406 & 1233 /Kol/2009 dated 11 9 2015 wherein it was held as under:-

*“9.2 We have heard the rival submission and perused the material available on record. The details of Rs. 46,26,553/- are as below:*

<i>A. Discount out of packing material</i>	<i>Rs. 2,76,732/-</i>
<i>B. Machinery break down claim</i>	<i>Rs. 11,600/-</i>
<i>C. Streets removal charges</i>	<i>Rs. 4,25,928/-</i>
<i>D. Discount on warehousing charges</i>	<i>Rs. 14,000/-</i>
<i>E. Tea Board subsidy</i>	<i>Rs. 1,14,975/-</i>
<i>F. Scrap Sale</i>	<i>Rs. 41,548/-</i>
<i>G. Storm Damage claim</i>	<i>Rs. 1,48,693/-</i>
<i>H. Received from IOL (Indian Oil Limited)</i>	<i>Rs. 2,34,000/-</i>
<i>I. Realized from Auto Entines</i>	<i>Rs. 81,142/-</i>
<i>J. Bazar Rent</i>	<i>Rs. 54,450/-</i>
<i>K. Interest on I.T. Refund (99-2000)</i>	<i>Rs. 3,78,515/-</i>

<i>L. Sundry receipts</i>	<i>Rs. 28,45,070/-</i>
<b><i>Total</i></b>	<b><i>Rs. 46,26,553/-</i></b>

*9.3. From the aforesaid list it could be seen that Items A to J were only arising out of tea business totaling to Rs 14,02,968/- and accordingly to be treated as income from business. Since no details could be filed regarding the sundry receipts before us, the same is considered as the income from other sources. Interest on Income-tax refund could definitely be construed only as income from other sources. We direct the Assessing Officer to re-compute accordingly. Accordingly, Ground No. 4 of the Revenue is partly allowed.*

8.2.1. He also placed reliance on the decision of Id CITA for the Asst Year 2009-10 in ITA No. 263/CIT(A)-2/2014-15 dated 4.11.2015 in assessee's own case wherein it was held that sale proceeds of scrap, sale of tea waste sale of store items etc are to be treated as business income and hence would be part of composite income of the assessee. It is true that there is no estoppel against the statute and reliance in this regard has been rightly placed by the Id AR on the decision of the *Hon'ble Jurisdictional High Court in the case of SAIL DSP VR Employees Association 1998 vs Union of India & Ors reported in (2003) 262 ITR 638 (Cal)*, wherein it was held that :-

*The question of estoppel because of option exercised with eyes open to the subsequent modification cannot be sustained. What is not otherwise taxable cannot become taxable because of admission of the assessee. Nor there can be any waiver of the right otherwise admissible to the assessee in law. The chargeability is not dependent on the admission of or waiver by the assessee. Chargeability is dependent on the charging section, which needs to be strictly construed.*

Respectfully following the aforesaid ratio, we hold that the Id AO ought not to have treated the aforesaid receipts as other income and hence not part of composite income of the assessee merely based on admission of the assessee. Now getting into the merits of each item of receipt, we find that the receipt towards sale of tea waste, rent realized and tea claim realized, would be eligible to be forming part of composite income of the assessee based on the decision of this tribunal dated 11.9.2015 supra

and by the decision of Id CITA in assessee's own case for the Asst Year 2009-10. As far as other items of receipts are concerned, no details were furnished by the assessee and no business nexus of those receipts with the tea business were proved by the assessee. Hence we hold that the same would have to be treated separately as income from other sources. For the sake of clarity, we would like to state the incomes forming part of composite income would be sale of tea waste, rent realized and tea claim realized. The other receipts i.e sale of assets and sundry receipts would have to be treated as income from other sources. Accordingly, the grounds raised in this regard for the Asst Years 2011-12 and 2012-13 are partly allowed

9. In the result, the appeal of the assessee in

ITA No. 301/Kol/2016 for Asst Year 1993-94 is allowed

ITA No. 302/Kol/2016 for Asst Year 2001-02 is partly allowed for statistical purposes

ITA No. 304/Kol/2016 for Asst Year 2011-12 is partly allowed

ITA No. 305/Kol/2016 for Asst Year 2012-13 is partly allowed

**Order pronounced in the Court on 05.01.2018**

Sd/-

[S.S. Viswanethra Ravi]  
Judicial Member

Sd/-

[ M.Balaganesh ]  
Accountant Member

Dated : 05.01.2018  
SB, Sr. PS

Copy of the order forwarded to:

1. M/s Rydak Syndicate Ltd., 4, Clive Row, Kolkata-700001.
2. DCIT, SPL. Rg-2, Kolkata., Aayakar Bhawan, P-7, Chowringhee Square, Kolkata-69.
- 3..C.I.T.- 4. C.I.T.- Kolkata.
5. CIT(DR), Kolkata Benches, Kolkata.

ITA Nos.301-302 &304-305/Kol/2016  
M/s Rydak Syndicate Ltd.  
A.Yrs. 93-94,01-02,11-12&12-13

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By Order

Senior Private Secretary  
Head of Office/D.D.O., ITAT, Kolkata Benches

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