



IN THE INCOME TAX APPELLATE TRIBUNAL
"J" BENCH, MUMBAI
BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER AND
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER

ITA no.1469/Mum./2016
(Assessment Year : 2006-07)

M/s. JSW Steel Ltd.
(Successor on Amalgamation of
JSW Ispat Steel Ltd.)
JSW Centre, Bandra Kurla Complex
Bandra (East), Mumbai 400 051
PAN – AAACI6293E

..... Appellant

v/s

Dy. Commissioner of Income Tax
Central Circle-3(2), Mumbai

..... Respondent

ITA no.1470/Mum./2016
(Assessment Year : 2009-10)

M/s. JSW Steel Ltd.
(Successor on Amalgamation of
JSW Ispat Steel Ltd.)
JSW Centre, Bandra Kurla Complex
Bandra (East), Mumbai 400 051
PAN – AAACI6293E

..... Appellant

v/s

Dy. Commissioner of Income Tax
Central Circle-3(2), Mumbai

..... Respondent

Assessee by : Shri Rakesh Joshi
Revenue by : Shri Abhijit Patankar

Date of Hearing – 26.02.2018

Date of Order – 28.02.2018

ORDER**PER SAKTIJIT DEY, J.M.**

These two appeals by the assessee are directed against two separate orders both dated 9th December 2015, passed by the learned Commissioner (Appeals)-51, Mumbai, for the assessment years 2006-07 and 2009-10.

2. The disputed issue which is more or less common in both the assessment years relates to short credit / not giving credit of TDS.

3. Brief facts are, while completing assessment under section 153A r/w section 143(3) of the Act for the impugned assessment years, the Assessing Officer did not give credit to TDS claimed of ₹ 15,67,395, for the assessment year 2006-07 and of ₹ 4,35,222 for the assessment year 2009-10. When the assessee filed an application under section 154 of the Act seeking credit of TDS as aforesaid, the Assessing Officer rejected the applications filed by the assessee stating that the assessee had not claimed such TDS in the return of income filed under section 139(1) or 139(5) of the Act but has claimed such TDS in the return of income filed in response to notice issued under section 153A of the Act. While doing so, he relied upon the decision of the Hon'ble Supreme Court in Goetze India Ltd, 284 ITR 323. Being aggrieved of the orders passed by the Assessing Officer rejecting the applications

under section 154 of the Act, the assessee filed appeals before the learned Commissioner (Appeals). Hence, the learned Commissioner (Appeals) upheld the orders passed by the Assessing Officer.

4. The learned Authorised Representative submitted, the assessee though, submitted TDS certificates in support of deduction of tax at source, however, the Assessing Officer refused to grant credit to the TDS merely on technical reason that the assessee has not claimed such TDS in the return of income filed originally. Learned Departmental Representative supported the decision of the learned Commissioner (Appeals).

5. Having considered the submissions of the parties, we are of the view, if tax has been deducted at source on account of assessee, the assessee must get credit for such TDS and the assessee cannot be deprived of tax genuinely paid by it for technical reasons. Merely because the assessee had not claimed the TDS in the original return of income credit for tax actually paid by the assessee cannot be denied. We, therefore, direct the Assessing Officer to verify the TDS certificates produced by the assessee and if after making necessary verification it was found that tax was actually deducted on payments received by the assessee in the relevant previous year and the assessee has offered such amount as income in the return of income

filed by it, then credit for TDS should be given to the assessee. In view of the above, we restore the issue back to the Assessing Officer for verifying assessee's claim and deciding the issue after due opportunity of being heard to the assessee.

6. In the result, both the appeals are allowed for statistical purposes.

Order pronounced in the open Court on 28.02.2018

Sd/-
MANOJ KUMAR AGGARWAL
ACCOUNTANT MEMBER

Sd/-
SAKTIJIT DEY
JUDICIAL MEMBER

MUMBAI, DATED: 28.02.2018

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The CIT(A);
- (4) The CIT, Mumbai City concerned;
- (5) The DR, ITAT, Mumbai;
- (6) Guard file.

Pradeep J. Chowdhury
Sr. Private Secretary

True Copy
By Order

(Asstt. Registrar/Sr.P.S)
ITAT, Mumbai