

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

[Before Hon’ble Shri J. Sudhakar Reddy, AM & Shri S.S. Godara, JM]

I.T.A No. 370/Kol/2018

Assessment Year : 2010-11

M/s S.R.Batliboi & Cos. LLP
(a limited liability partnership with LLP Ind)
[PAN: ACHFS 9180 N]
(Appellant)

-vs- DCIT, Circle-22, Kolkata

(Respondent)

For the Appellant : Shri D. Ghosh, FCA

For the Respondent : Shri S.Halder, Sr. DR

Date of Hearing : 18.12.2018

Date of Pronouncement : 28.12.2018

ORDER

Per S.S. Godara, JM

1. This assessee’s appeal for assessment year 2010-11 arises against the CIT(A)-6, Kolkata’s order dated 30.01.2018 passed in case no. CIT(A), Kolkata-6/10075/2016-17, involving proceeding u/s 263 / 143(3) of the Income Tax Act, 1961 (in short the ‘Act’).

Heard both the parties. Case file perused.

2. The assessee's sole substantive ground pleads in the instant appeal challenges correctness of both the lower authorities' action invoking section 14A read with Rule 8D(2)(iii) administrative expenditure disallowance amounting to Rs. 6,71,675/- made in the course of assessment dated 31.03.2016 and affirmed in lower appellate proceedings. Learned authorized representative's sole plea before us is that neither the Assessing Officer nor the CIT(A) has correctly applied the impugned disallowance computation provision. He submits that the administrative disallowance in question has to be computed as per average value of investment as on the opening and closing date of the relevant previous year. He thereafter takes us to the CIT(A)'s findings nowhere adjudicating this clinching aspect despite the fact that the tax payer had specifically raised this argument in lower appellate proceedings. Our attention is invited to paras 5 to 5.2 of page 32 of the CIT(A)'s order simply brushing aside the said specific argument non-speaking discussion. The Revenue fails to dispute this clinching factual position emanating from the record during the course of hearing. We therefore deem it appropriate to restore the instant sole issue back to the CIT(A) for appropriate adjudication as per law.

3. This assessee's appeal is allowed for statistical purposes.

Order pronounced in the Court on 28.12.2018

Sd/-

[J. Sudhakar Reddy]
Accountant Member

Sd/-

[S.S.Godara]
Judicial Member

Dated : 28.12.2018

SB, Sr. PS

Copy of the order forwarded to:

1. M/s S.R. Batliboi & Cos. LLP (a limited liability Partnership with LLP Identity No. AAB-4294), 22, Camac Street, Kolkata-16
2. DCIT, Circle-22, Kolkata,
- 3..C.I.T(A).-
4. C.I.T.- Kolkata.
5. CIT(DR), Kolkata Benches, Kolkata.

True copy

By Order

Assistant Registrar
ITAT, Kolkata Benches