

**IN THE INCOME TAX APPELLATE TRIBUNAL,
KOLKATA 'D' BENCH, KOLKATA**

**Before Shri P.M. Jagtap, Vice-President (KZ)
and Shri S.S. Viswanethra Ravi, Judicial Member**

**I.T.A. Nos. 595 & 596/KOL/2018
Assessment Years: 2013-2014 & 2014-2015**

***M/s. SRBC & Associates LLP,.....Appellant
(A Limited Liability Partnership with
LLP Identity No. AAB-4291) successor
To M/s. SRBC & Associates LLP w.e.f. 01.04.2013)
22, Camac Street, Kolkata-700 016
[PAN: ACHFS 9119 B]
-Vs.-***

***Deputy Commissioner of Income Tax,.....Respondent
Circle-22, Kolkata,
54/1, Rafi Ahmed Kidwai Road, 4th floor,
Kolkata-700 016***

Appearances by:

*Shri Debabrata Ghosh, FCA, for the Appellant
Shri Sankar Halder, JCIT, Sr. D.R., for the Respondent*

Date of concluding the hearing : January 02, 2019
Date of pronouncing the order : January 02, 2019

O R D E R

Per Shri P.M. Jagtap, Vice-President (KZ):-

These two appeals filed by the assessee are directed against two separate orders passed by the Id. Commissioner of Income Tax (Appeals)-6, Kolkata both dated 15.02.2018 for assessment years 2013-14 and 2014-15 and since the issues involved therein are inter-linked, the same have been heard together and are being disposed of by a single consolidated order.

2. We have heard the arguments of both the sides and also perused the relevant material available on record. As regards the solitary issue involved in the appeal of the assessee for A.Y. 2013-14 relating to the

disallowance of Rs.60,87,836/- made by the Assessing Officer and confirmed by the ld. CIT(Appeals) on account of the provision made for leave encashment on the basis of actuarial valuation, the ld. Representatives of both the sides have agreed that a similar issue was involved in the case of M/s. S.R. Batliboi & Associates LLP -vs.- ACIT and vide its order dated 20.09.2017 passed in ITA No. 498/KOL/2015, the Coordinate Bench of this Tribunal restored the issue to the file of the Assessing Officer with a direction to await the final decision of Hon'ble Supreme Court in the case of M/s. Exide Industries Limited [SLP (Civil) 22889 of 2008] and decide the same in accordance with the said decision. Respectfully following the said decision of Coordinate Bench of this Tribunal in the case of M/s. S.R. Batliboi & Associates LLP, we set aside the impugned order of the ld. CIT(Appeals) on this issue and restore the matter to the file of the Assessing Officer for deciding the same afresh as per the same direction as given by the Tribunal in the case of M/s. S.R. Batliboi & Associates LLP (supra). The appeal of the assessee for A.Y. 2013-14 is accordingly treated as allowed for statistical purposes.

3. As regards the appeal of the assessee for A.Y. 2014-15, it is observed that the solitary issue involved therein relating to the addition of Rs.10,49,870/- made by the Assessing Officer and confirmed by the ld. CIT(Appeals) on protective basis on account of provision made in A.Y. 2013-14 for leave encashment and reversed during A.Y. 2014-15 is consequential to the issue involved in the appeal of the assessee for A.Y. 2013-14, inasmuch as, if the assessee finally gets a deduction on account of provision for leave encashment made in A.Y. 2013-14, the said provision to the extent reversed during A.Y. 2014-15 will be liable to be taxed in A.Y. 2014-15 and vice-versa. Since the issue involved in the assessee's case for A.Y. 2013-14 relating to deduction on account of provision for leave encashment has been restored by us to the file of the Assessing Officer, we also restore the issue involved in A.Y. 2014-15 relating to the addition made on account of reversal of provision for leave

encashment on protective basis to the file of the Assessing Officer for deciding the same afresh depending on the final outcome of the issue relating to the deduction on account of provision for leave encashment as involved in A.Y. 2013-14. The appeal of the assessee for A.Y. 2014-15 is accordingly treated as allowed for statistical purposes.

4. In the result, both the appeals of the assessee are treated as allowed for statistical purposes.

Order pronounced in the open Court on January 02, 2019.

Sd/-
(S.S. Viswanethra Ravi)
Judicial Member

Sd/-
(P.M. Jagtap)
Vice-President (KZ)

Kolkata, the 2nd day of January, 2019

- Copies to :*
- (1) **M/s. SRBC & Associates LLP,
(A Limited Liability Partnership with
LLP Identity No. AAB-4291) successor
To M/s. SRBC & Associates LLP w.e.f. 01.04.2013)
22, Camac Street, Kolkata-700 016**
 - (2) **Deputy Commissioner of Income Tax,
Circle-22, Kolkata,
54/1, Rafi Ahmed Kidwai Road, 4th floor,
Kolkata-700 016**
 - (3) **Commissioner of Income Tax (Appeals)-6, Kolkata,**
 - (4) **Commissioner of Income Tax- ,**
 - (5) **The Departmental Representative**
 - (6) **Guard File**

By order

*Assistant Registrar,
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata*

Laha/Sr. P.S.