

**IN THE INCOME TAX APPELLATE TRIBUNAL  
RANCHI BENCH, RANCHI**

Before **Shri S.S.Godara, Judicial Member** and  
**Dr. A.L. Saini, Accountant Member**

<b>ITA No.93/Ran/2017</b> Assessment Year :2012-13
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Income Tax Officer, Ward-2(4), 1 <sup>st</sup> Floor, Central Revenue Building {Annex), Main Road, Ranchi	<b>V/s.</b>	M/s Minerals and Minerals Ltd., Hindalco Complex, Court Road, Lohardanga-835302 [ <b>PAN No. AADCM 1957 G</b> ]
अपीलार्थी /Appellant	..	प्रत्यर्थी/Respondent

अपीलार्थी की ओर से/By Appellant	Shri P.K. Mondal, JCIT-DR
प्रत्यर्थी की ओर से/By Respondent	Shri S.K. Gaur Advocate & Shri Amitava Chakraborty, Advocate
सुनवाई की तारीख/Date of Hearing	08-01-2019
घोषणा की तारीख/Date of Pronouncement	15-02-2019

**आदेश /ORDER**

**PER BENCH:-**

This Revenue's appeal for assessment year 2012-13 challenges correctness of the Commissioner of Income Tax (Appeals)-Ranchi's order dated 27.02.2017 passed in case No.13/Ran/Oth/15-16 reversing Assessing Officer's action disallowing the taxpayer's raising expenditure claimed of Rs.1,26,03,833/- in the course of assessment framed on 10.03.2015, involving proceedings u/s 143(3) of the Income Tax Act, 1961; in short 'the Act'.

Heard both the parties. Case file perused

2. It transpired at the outset during the course of hearing that the assessee had claimed the impugned raising expenses in the nature of a provision based

on estimation of liability. The Assessing Officer disallowed as an instance of contingent liability. The assessee filed appeal. In placed on record certain additional evidence during lower appellate proceedings. Learned CIT(A) sought a remand report from the Assessing Officer. This crucial remand report from the Assessing Officer came to be filed on 31.01.2017 making it clear that the assessee's impugned provision was very well justifiable. The CIT(A)'s order in para 5.2 has extracted the above remand report as follows:-

*"[5.2] The Ld. Assessing Officer has submitted his Remand Report (duly endorsed by the Jt. Commissioner of Income Tax, Range-2, Ranchi) vide his letter F.No.ITO-2(4)/RNC/Remand Report/2015-16/5390 dated 31.01.2017. The Remand Report of the Ld. Assessing Officer is extracted below:-*

'As per your direction a letter bearing F.No.IXTO-2(4)//RNC/Remand Report/2015-16/4866 dated 29<sup>th</sup> December, 2016 was sent to the assessee fixing the date of hearing on 13<sup>th</sup> January, 2017. Nobody appeared for hearing on 13.01.2017 against a letter bearing F.No.ITO-2(4)/RNC/Remand Report/2015-16/5789 dated 16.01.2017 was sent to the assessee company fixing the date of hearing on 23.01.2017.

On 23.01.2017 Sri Amitava Chakraborty, Finance Head of M/s Minerals and Minerals, Lohardaga appeared and requested for adjournment of case for 30.01.2017. Accordingly the case was adjourned for 30.01.2017.

On 30.01.2017, Sri S.K. Gaur, Authorized Representative appeared. He furnished a written submission. The Authorized Representative of the assessee company was asked to furnish the supporting documents and evidences in support of their claim of expenses outstanding amounting to Rs.2,33,729/- and Rs.1,23,70,104/-. During the course of hearing Sri S.K. Gaur submitted the copy of bills along with ledger and also the debit notes relating to expenses outstanding.

On perusal of the documents submitted by the Authorized Representative of the assessee company, the outstanding expenses were on account of Mines raising and transporting expenses, the details for which are as under:-

Name of the party	Bill date	Period	Amount
Pathari Viikash Udyami Samuh	28.03.2012	10.11.2011 to 01.01.2012	2,57,803/- including service tax of Rs.24,074/-
M/s Balaji Associates	13.04.2016	01.03.2012 to 31.03.2012	Rs.1,55,43,448.69

Thus it is clear that although the work was done during the Financial Year 2011-12 but the bills were submitted by the parties only on 28.03.2012 and 13.04.2012 respectively by M/s Pathari Vikash Udyami Samuh and M/s Balaji Associates (Copy of bills enclosed). The assessee company is maintaining its Books of account in mercantile systems of accounting. The work done during the Financial Year 2011-12 but the expenses paid only in the Financial Year-2012-13. As the assessee company is maintaining mercantile system of accounting, therefore, although the payment was made during the Financial Year 2012-13 but it was booked in the books of the assessee company during the Financial Year-2011-12, M/s Hindaloc Industries Limited paid an amount of Rs.2,33,792/- to M/s Pathari Vikash Udyami Samuh on 10.04.2012 and Rs.1,23,70,104/- to M/s Balaji Associates on 24.04.2012 which is evident from the debit note of M/s Hindalco Industries Ltd., furnishing by the

Authorized Representative of the assessee during the course of hearing. TDS has also been deducted u/s.194C in respect of the above named parties.

**After perusal of the supporting evidences furnished by the assessee company, the outstanding expenses as claimed by the assessee company are justifiable.”**

This is what has made the CIT(A) to delete the impugned disallowance / addition of the liability provision.

3. Mr. Mondal vehemently contends during the course of hearing that the CIT(A) has erred in law as well as on facts in deleting the impugned disallowance since the assessee is neither liability based on any systematic computation or on any contractual / obligation. We find no merit in Revenue's instant arguments since assessing officer's remand report's discussion itself made it clear that the impugned liability provision claim is very much justifiable. Hon'ble Madras high court in (2018) 96 taxmann.com 486 (Mad) *Smt. B Jayalakshmis vs. ACIT* holds in such circumstances that the Revenue's appeal in such a case of Assessing Officer's accepting the impugned claim in remand report is not maintainable. We therefore reject Revenue's instant sole substantive ground as well as main appeal for this precise reason alone.

4. This Revenue's appeal is dismissed.

Order pronounced in accordance with Rules 34(3) of the ITAT Rules by putting on Notice Board on 15/02/2019

Sd/-

(लेखा सदस्य)

(Dr. A.L. Saini)

(Accountant Member)

Ranchi,

\*Dkp Sr.P.S

दिनांक:- 15/02/2019 Ranchi I

**आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-**

1. अपीलार्थी/Appellant-ITO Ward- Ward-2(4), 1<sup>st</sup> Floor, Central Revenue Building (Annexe) Main Road, Ranchi
2. प्रत्यर्थी/Respondent-M/s Minerals & Minerals Ltd., Hindalaco Complex, Court Rd. Lohardaga-835302
3. संबंधित आयकर आयुक्त / Concerned CIT Ranchi
4. आयकर आयुक्त- अपील / CIT (A) Ranchi
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, / DR, ITAT, Ranchi
6. गार्ड फाइल / Guard file.

/True Copy/

Sd/-

(न्यायिक सदस्य)

(S.S.Godara)

(Judicial Member)

By order/आदेश से,

SR.PS, ITAT, RANCHI