

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES "B", JAIPUR

श्री रमेश सी शर्मा, लेखा सदस्य एवं श्री विजय पाल राव, न्यायिक सदस्य के समक्ष
BEFORE: SHRI RAMESH C SHARMA, AM & SHRI VIJAY PAL RAO, JM

आयकर अपील सं./ITA No. 806/JP/2018
निर्धारण वर्ष / Assessment Year :2013-14

Gangaur Exports Pvt. Ltd., 1-Anokhi Farm, Todi Ramzanipura, Jagatpura, Jaipur-302017.	बनाम Vs.	A.C.I.T., Circle-6, Jaipur.
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AAACG 8877 G		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri S.K. Mathur (CA)
राजस्व की ओर से / Revenue by : Shri A.K. Mahla (JCIT)

सुनवाई की तारीख / Date of Hearing : 10/04/2019
उदघोषणा की तारीख / Date of Pronouncement : 02/05/2019

आदेश / ORDER

PER: R.C. SHARMA, A.M.

This is an appeal filed by the assessee against the order of Id.CIT(A)-2, Jaipur dated 15/03/2018 for the A.Y. 2013-14 in the matter of order passed U/s 143(3) of the Income Tax Act, 1961 (in short the Act). In this appeal, the assessee has taken sole effective ground, which is as under:

- "1. The Id. CIT(A)-2, Jaipur has erred in confirming the addition U/s 80IA amounting to Rs. 35,81,416.00 ignoring the fact that the assessee has filed report U/s 80IA electronically well before the completion the assessment U/s 143(3)."*

2. Rival contentions have been heard and record perused. Facts in brief are that the assessee is engaged in manufacturing and export of readymade garments and handicrafts. The assessee has claimed deduction U/s 80 IA for Rs.35,81,416/- in computation of income. As the audit report was not submitted alongwith return of income electronically under Rule 12(2) of the IT Rules, the deduction U/s 80 IA of the Act was declined. By the impugned order, the Id. CIT(A) confirmed the action of the A.O., against which the assessee is in appeal before the ITAT.

3. We have considered the rival contentions and carefully gone through the orders of the authorities below and found from the record that the company has electronically filed Form No. 10CCB for claiming the deduction U/s 80IA for the A.Y. 2013-14 as on 15/03/2016. Prior to the A.Y. 2013-14, the electronic filing of Form 10CCB was not mandatory and form was not required to be enclosed with the return of the income under Rule 12(2) of the Income Tax Rules. As per amended Rule 12(2) the electronic filing of Form 10CCB is mandatory but the due date of filing has not been prescribed. Keeping in view of the above provisions, Form No. 10CCB electronically filed before completion of assessment proceedings fulfils the condition of Rule 12(2) of the IT Rules. The Hon'ble Supreme Court in the matter of CIT Vs GM Knitting Industries P. Ltd. Vs AKS Alloys

P. Ltd. (2015) 376 ITR 456 (SC) has held that filing of Form 10CCB before the assessment is sufficient compliance of the law.

4. It is clear from the order of the A.O. that he has declined claim of deduction U/s 80IA of the Act merely on the plea that the audit report was not filed electronically whereas undisputedly the same was filed during the course of assessment proceedings. Thus, there was sufficient compliance with regard to filing of audit report. However, without pointing out any failure of the assessee with regard to fulfilment of conditions prescribed U/s 80IA of the Act, the A.O. was not justified in declining the claim of deduction U/s 80IA of the Act. Since the audit report was already before the A.O. during the scrutiny assessment proceedings, in all fairness, we restore the matter back to the file of the A.O. for deciding the issue of assessee's eligibility to claim deduction U/s 80IA of the Act as per material placed on record. Needless to say, the assessee should be given due opportunity of hearing before deciding the issue.

5. In the result, appeal of the assessee is allowed for statistical purposes only.

Order pronounced in the open court on 02nd May, 2019.

(विजय पाल राव)
(VIJAY PAL RAO)
न्यायिक सदस्य / Judicial Member
जयपुर / Jaipur
दिनांक / Dated:- 02nd May, 2019

(रमेश सी शर्मा)
(RAMESH C SHARMA)
लेखा सदस्य / Accountant Member

***Ranjan**

आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to:

1. अपीलार्थी / The Appellant- Ganguar Exports Pvt. Ltd., Jaipur.
2. प्रत्यर्थी / The Respondent- The A.C.I.T., Circle-6, Jaipur.
3. आयकर आयुक्त / CIT
4. आयकर आयुक्त(अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
6. गार्ड फाईल / Guard File (ITA No. 806/JP/2018)

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar