



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

**BEFORE SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER AND
LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

ITA No.283/CTK/2018
Assessment Year : 2014-2015

DCIT, Corporate Circle 1(1), Bhubaneswar.	Vs.	M/s. Kalinga Hospital Ltd., GD- 2C, Nandankanan Road, C.S.Pur, Bhubaneswar.
PAN/GIR No.AABCK 3753 C		
(Appellant)	..	(Respondent)

Assessee by : Shri Amitav Satpathy, Manager (Finance)
Revenue by : Shri Subhendu Dutta, DR

Date of Hearing : 04/09/ 2019
Date of Pronouncement : 04/09/ 2019

ORDER

Per C.M.Garg,JM

This is an appeal filed by the revenue against the order of the CIT(A),1, Bhubaneswar dated 20.4.2018 for the assessment year 2014-15.

2. The only issue agitated by the revenue is as to whether the CIT(A) is justified in directing the AO to give MAT credit u/s.115JA by including surcharge and education cess.

3. During the course of assessment proceedings, the Assessing Officer noticed that the assessee had claimed total MAT credit for an amount of Rs.2,97,30,016/- by including surcharge, education cess & secondary education cess in the tax computed on the income u/s.115JB of the Act. As per the decision of ITAT Delhi in the case of M/s. Richa Global Exports Pvt

Ltd vs ACIT, ITA No.2302/.Del/2012 for the assessment year 2010-2011, the Assessing Officer has allowed MAT credit for a lesser amount without taking into consideration the surcharge and cess paid on MAT.

4. On appeal, the CIT(A) directed the Assessing Officer to allow MAT credit, by observing as under:

“I have considered the matter and perused the written submission of the assessee. The issue involved here is whether MAT credit would include surcharge and education cess paid on MAT. This issue has remained debatable and there are conflicting opinion on the same. The AO has followed the decision of the Hon'ble ITAT, Delhi in the case M/s. Richa Global Exports (P) Ltd. The assessee has referred to the decisions of the Hon'ble Allahabad High Court in the case CIT v. M/s. Vacment India Agra and the Hon'ble Calcutta High Court in the case of Srei Infrastructure Finance Ltd. delivered on 12.8.2016. Copies of these judgments have been filed by the assessee. In these judgments, the Hon'ble High Courts have held that MAT credit u/s.H5JAA would include surcharge and education cess. (I also find that the Hon'ble ITAT, Hyderabad Bench in the case of M/s. Virtusa (India) (P) Ltd. in ITA No.146/Hyd/2015 have held vide their order dt.4.3.2016 that the term tax used in section 115JAA(2A) would include surcharge and cess. Going by the provisions of law, this decision of the Hon'ble ITAT, Hyderabad Bench is in consonance with the Hon'ble Apex Court's decision in the case of K. Srinivasan 83 ITR 346. Respectfully following the decisions of the Hon'ble Allahabad and Calcutta High Courts and the decision of the Hon'ble ITAT, Hyderabad, it is held that MAT credit would include education cess and surcharge. **Hence, the AO is directed to allow MAT credit accordingly.**”

5. Before us, although Id D,.R. supported the order of the Assessing Officer but could not point out any error in the order of the CIT(A). We find that with regard to the case of M/s Richa Global Export Private Ltd (supra) we find that the case deals with whether the amount of MAT Credit under [section 115JA](#) would include surcharge and cess on the tax payable on the book profits which is the similar ground in the present appeal. We

find that the CIT(A) by following the decision of Hon'ble Allahabad High Court in the case of Vacment India Agra and Hon'ble Calcutta High Court decision in the case of Srei Infrastructure Finance, wherein, it was held that MAT credit u/s.115JAA would include surcharge and education cess, has directed the AO to allow MAT credit to the assessee. This findings of the CIT(A) are not controverted by the Id D.R. during the course of hearing. Hence, we find no infirmity in the order of the CIT(A), which is hereby confirmed and grounds of appeal of the revenue are dismissed.

10. In the result, appeal of the revenue is dismissed.

Order pronounced on 4/09/2019.

Sd/-
(Laxmi Prasad Sahu)
ACCOUNTANT MEMBER

sd/-
(Chandra Mohan Garg)
JUDICIAL MEMBER

Cuttack; Dated 4 /09/209
B.K.Parida, SPS

Copy of the Order forwarded to :

1. The Appellant : DCIT, Corporate Circle 1(1), Bhubaneswar
2. The Respondent. M/s. Kalinga Hospital Ltd., GD-2C, Nandankanan Road, C.S.Pur, Bhubaneswar
3. The CIT(A)-1, Bhubaneswar
4. Pr.CIT- 1, Bhubaneswar
5. DR, ITAT, Cuttack
6. Guard file.
//True Copy//

By order

Sr.Pvt.secretary
ITAT, Cuttack