

IN THE INCOME TAX APPELLATE TRIBUNAL “A” BENCH: KOLKATA
[Before Shri P.M. Jagtap, V.P and Shri A.T. Varkery, AM]

I.T.A No. 210/Kol/2018 A.Y 2012-13

M/s. Eastman Crusher Co. Pvt. Ltd PAN: AAACE 5960E	Vs.	D.C.I.T, Circle-1, Kolkata
Appellant		Respondent

Date of Hearing	25-11-2019
Date of Pronouncement	20.12.2019

For the Appellant	Shri T.K. Chakraborty, Advocate, Id. AR
For the Respondent	Smt. Ranu Biswas, Addl. CIT, Id.DR

ORDER

PER SHRI A.T. VARKEY, JM

This is an appeal preferred by the assessee against the order of Ld. CIT (Appeals) , 1, Kolkata dated 6th December, 2017 for the assessment year 2012-13.

2. The main grievance of the assessee is against the action of the Id. CIT(A) in denying the credit for the payment of dividend distribution of tax (hereinafter, in short, DDT) for Rs.79,806/- paid online on 21-10-2011 and upholding the interest charged u/s. 115P of the Income-tax Act, 1961 (in short, the ‘Act’ hereinafter) of Rs.29,125/-.

3. Brief facts of the case are that the appellant assessee is a private limited company, which had filed return of income on 22-09-2012. The return was processed u/s. 143(1) on 22-07-2013. According to the assessee, the total DDT being made by the appellant company during F.Y 2011-12 (A.Y 2012-13) was Rs.1,99,513/- (Rs.79, 806 + Rs. 1,19,707/-). However, while making payment of D.D.T for Rs. 79,806/- online on 21-10-2011 the appellant mistakenly mentioned A.Y 2011-12 in the Challan instead of AY 2012-13; and the AO, therefore, denied the credit of Rs. 79,806/-. Aggrieved, by the denial of credit of Rs. 79,806/- the appellant filed rectification petition u/s. 154 of

the Act before the C.P.C, Bangalore. However, by order dt. 15-09-2014 the credit of Rs. 79,806/- was denied as well as an addition of interest of Rs. 29,125/- was charged u/s. 115P of the Act. Aggrieved, the assessee preferred an appeal before the Id. CIT(A), who was pleased to dismiss the same on the reason that the assessee failed to produce any supporting evidences in respect of the claim; and because the payment of DDT of Rs. 79,806/- was not claimed in the relevant assessment year. Aggrieved, the assessee is before us.

4. We have heard both the parties and perused the records. Facts narrated are not repeated for the sake of brevity. However, we note that the assessee's case is that the assessee had made total D.D.T payment for the year under consideration at Rs.1,99,513/- (Rs. 79,806 + Rs. 1,19,707). It is noted that while making payment D.D.T for Rs.79,806 online on 21-10-2011, the appellant mentioned A.Y 2011-12 mistakenly in the challan. However, it was brought to our notice in the return filed the assessee claimed about this fact of payment of Rs.79,806/- in the relevant year in its return. It was brought to our notice that during the appellate proceedings copy of challan for DDT payment of Rs. 79,806/- dt. 21-10-2011 and challan dt. 29-03-2012 were furnished before the Id. CIT(A). However, the Id. CIT(A) has not appreciated the fact of payment made online on 21-10-2011 of Rs.79,806/- and has not given credit to it. We note that while making the payment of DDT for Rs.79,806/- online on 21-10-2011, the appellant inadvertently mentioned A.Y 2011-12 in the challan and the assessee has claimed the payment for DDT payment in the return for the AY 2012-13. In such circumstances, if the assessee has made the payment for the relevant A.Y under consideration, then credit has to be given to it and cannot be denied because of an inadvertent error on the part of assessee to put the earlier year A.Y 2011-12 instead of A.Y 2012-13. Therefore, we set-aside the impugned order of Ld CIT(A) and remand the issue back to the file of AO and direct him to verify the fact that assessee had made the payment in the assessment year under consideration as aforesaid, then it has to be given credit for the same. If the assessee's stand is correct, then no interest should be levied u/s. 115P of the Act of Rs. 29,125/- and it should be deleted since according to assessee the entire liability on account of DDT for Rs.1,99,513/-

was paid during the assessment year 2012-13. With the aforesaid observation/direction, the appeal of the assessee is allowed for statistical purposes.

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

Order Pronounced in the Open Court on 20th December, 2019

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

Dated 20 -12-2019

Sd/-
A.T. Varkey
Judicial Member

PP(Sr.P.S.)

Copy of the order forwarded to:

1. Appellant/Assessee: M/s. Eastman Crusher Co. P.Ltd. 4A, Council House St., 2nd Fl., B.B.D Bag, Kolkata-700 001.
2. Respondent/Revenue: The DCIT, Circle-1, Aaykar Bhawan,P-7 Chowringhee Sq., Kolkata-69.
3. CIT,
4. CIT(A), Kolkata.
5. DR, Kolkata Benches, Kolkata

**PP/SPS

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By Order

Assistant Registrar
ITAT Kolkata