

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

(Before Sri J. Sudhakar Reddy, Accountant Member & Sri S. S. Godara, Judicial Member)

**I.T.A. No. 297/Kol/2018
Assessment Year: 2011-12**

Hindustan Steelworks Construction Limited.....Appellant
5/1, Commissariat Road
Hastings
Kolkata - 700 022
[PAN : AAACH 9524 R]

Vs.

Income Tax Officer, Ward - 12(1), Kolkata.....Respondent

**I.T.A. No. 388/Kol/2018
Assessment Year: 2011-12**

Deputy Commissioner of Income Tax, Central Circle - 11(1), Kolkata.....Appellant

Vs.

Hindustan Steelworks Construction Limited.....Respondent
5/1, Commissariat Road
Hastings
Kolkata - 700 022
[PAN : AAACH 9524 R]

Appearances by:

Shri S.K. Pransukha, A/R, appeared on behalf of the assessee.

Shri P.K. Srihari, CIT, D/R, appearing on behalf of the Revenue.

Date of concluding the hearing : November 28th, 2019

Date of pronouncing the order : December 31st, 2019

ORDER

Per J. Sudhakar Reddy, AM :-

These are cross-appeals directed against the order of the against the order of the Learned Commissioner of Income Tax (Appeals) – 4, Kolkata, (hereinafter the “ld.CIT(A)”), passed u/s. 250 of the Income Tax Act, 1961 (the ‘Act’), dt. 21/12/2017, for the Assessment Year 2011-12.

2. The assessee is a public sector undertaking (PSU) and filed its return of income for the Assessment Year 2011-12 on 23/09/2011, declaring total loss of Rs.29,09,69,900/- under the normal provisions of the Act and computed book loss of

Rs.67,73,50,700/- u/s 115JB of the Act. The Id. Counsel for the assessee, brought to the notice of the Bench that the grounds of appeal are not concise and precise as required under the Income Tax (Appellate Tribunal) Rules, 1963 and hence, he filed the following revised ground of appeal:-

“The Ld. CIT(A) has erred in confirming the disallowance of Rs.3.7 cr being 30% out of general charges 12.73 cr on ad hoc basis without appreciating that all expenses are incurred for business purpose.”

3. After hearing rival contentions, we find that the assessee is a PSU and the adhoc disallowance made by the Assessing Officer as confirmed by the Id. CIT(A) is totally unwarranted and based on surmises and conjectures. Just because the assessee has incurred huge loss, during the year, and just because the expenses under the head general charges had increased during the year, it does not lead to the conclusion that an adhoc disallowance can be made. Hence, we delete the same and allow this ground of the assessee. In the result, the appeal of the assessee is allowed.

4. We now take up the appeal of the revenue in ITA No. 388/Kol/2018.

5. Ground No. 1 is on the issue of violation of Rule 46A of the Income Tax Rules, 1962 (‘Rules’), by the Id. CIT(A). We find no such violation. The assessee had not claimed deduction in its computation of income on provisions made and similarly, when such provisions were written back, it had not offered the same as income. Thus, at para 4 page 3 of the order, the Id. CIT(A) deleted the addition. We find no infirmity in the same. Hence, this ground of the assessee is dismissed.

6. Ground No. 2 is on the issue of disallowance of unpaid cess u/s 43B of the Act.

The Id. CIT(A) records a factual finding that the assessee has not claimed a deduction of this amount and hence, the question of disallowance u/s 43B of the Act does not arise. We find no infirmity in this finding and hence dismiss ground no. 2 of the revenue.

7. Ground No. 3 is on the issue of taxability of interest on security deposit. Security deposit was placed with a client of the assessee and the realisation of the same depends on the performance and completion of the project within the due date as per the agreed terms and conditions. The Id. CIT(A) held that the interest in question cannot be taken as income during the year, in view of the consistent method of accounting being followed by the assessee and in view of the fact that there is no certainty of realisation of interest on security deposit in come cases. We find no infirmity in this finding of the Id. CIT(A). In the result, ground no. 3 of the revenue is dismissed.

8. Ground No. 4 is on the issue of deduction of bad debts. The assessee filed details disclosing that amounts due from Central Coalfield Ltd. were written off on settlements. As the debt was written off and as the same was taken into account in the earlier Assessment Years, the proposition of law laid down by the Hon'ble Supreme Court in the case of *TRF Ltd. vs. Commissioner of Income Tax reported in [2010] 323 ITR 397 (SC)*, applies and hence we dismiss this ground of the revenue.

9. In the result, appeal of the assessee is allowed and appeal by the revenue is dismissed.

Kolkata, the 31st day of December, 2019.

Sd/-

[S.S. Godara]

Judicial Member

Dated : 31.12.2019

{SC SPS}

Sd/-

[J. Sudhakar Reddy]

Accountant Member

Copy of the order forwarded to:

1. Hindustan Steelworks Construction Limited
5/1, Commissariat Road
Hastings
Kolkata - 700 022

2. Income Tax Officer, Ward - 12(1), Kolkata

3. Deputy Commissioner of Income Tax, Central Circle - 11(1), Kolkata

4. CIT(A)-

5. CIT- ,

6. CIT(DR), Kolkata Benches, Kolkata.

True Copy
By Order

Assistant Registrar
ITAT, Kolkata Benches