

IN THE INCOME TAX APPELLATE TRIBUNAL  
“A” BENCH : BANGALORE

BEFORE SHRI ARUN KUMAR GARODIA, ACCOUNTANT MEMBER  
AND SHRI GEORGE GEORGE K, JUDICIAL MEMBER

ITA No. 324/Bang/2017
Assessment year : 2012-13

M/s. Jindal Aluminium Ltd., Jindal Nagar, Tumkur Road, Bengaluru – 560 073. <b>PAN : AAACJ 4324 M</b>	Vs.	The Joint Commissioner of Income Tax (LTU), JSS Tower, 100 Feet Ring Road, Banashankari, 3 <sup>rd</sup> Stage, Bengaluru – 560 085.
APPELLANT		RESPONDENT

Assessee by	:	Smt. Sheetal Borkar, Advocate
Revenue by	:	Dr. Shankar Prasad, Add. CIT(DR)(ITAT), Bengaluru

Date of hearing	:	17.09.2020
Date of Pronouncement	:	25.09.2020

**ORDER**

*Per A.K. Garodia, Accountant Member*

This appeal is filed by the assessee and the same is directed against the order of learned CIT (Appeals) - 14, Large Taxpayers Unit, Bengaluru, dated 29.12.2016, for Assessment Year 2012-13.

2. The grounds raised by the assessee are as under:-

1. *The Order passed by learned CIT(A), is opposed to law, facts and circumstances of the case.*
2. *The learned CIT (A) erred in not allowing full deduction under section 80IA of the Income Tax Act, 1961.*
3. *The learned CIT (A) should have appreciated the fact that separate books of accounts were maintained for each windmills and assessee has filed Profit & Loss accounts of each windmills separately in Form IOCCB.*
4. *The learned CIT (A) erred in allowing apportionment of common expenses as there is no such provision in the Income Tax Act, 1961.*
5. *Without prejudice to the above mentioned grounds, the disallowance made by the learned CIT(A) are highly arbitrary and unrealistic and are liable to be deleted in full.*
6. *For these and such other grounds that may be urged during the hearing of this appeal, appellant prays that the appeal may be allowed.*
7. *The appellant craves leave to add, to alter, to amend or to delete any of the grounds that may be urged at the time of hearing of the appeal.*

3. In the course of hearing, it was submitted by learned AR of the assessee that as per para 5.2 of the order of CIT(A), it is noted by CIT(A) has in Assessment Year 2008-09 in assessee's own case, the Tribunal has restored the matter back to the file of CIT(A) for a fresh decision. At this juncture, the Bench wanted to know about the final outcome in Assessment Year 2008-09 after such direction of the Tribunal. In reply, it was submitted by learned AR of the assessee that the issue is still pending before CIT(A). Then, at this juncture, it was observed by the Bench that in that situation, the matter in the present year should also go back to CIT(A) for a decision

simultaneously with a decision in Assessment Year 2008-09. Both the sides agreed to this proposition put forward by the Bench.

4. In view of the above discussion, we set aside the order of CIT(A) and restore the matter back to his file for a fresh decision simultaneously with decision on this issue in Assessment Year 2008-09 if it is still pending before CIT(A) because in that year, the matter was remanded by the Tribunal to the file of CIT(A). In case, by the time this order reaches to the file of CIT(A), the issue is already decided by CIT(A) in Assessment Year 2008-09 then in the present year, he should decide the issue afresh in line with his final decision in Assessment Year 2008-09. In view of this, no further adjudication is called for at the present stage.

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

6. *Pronounced in the open court on the date mentioned on the caption page.*

Sd/-  
(GEORGE GEORGE K)  
Judicial Member

Sd/-  
(A.K. GARODIA)  
Accountant Member

Bangalore,  
Dated, the 25<sup>th</sup> September, 2020  
/NS/\*

Copy to:

1. Appellants
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT, Bangalore.
6. Guard file

By order

Assistant Registrar,  
ITAT, Bangalore.