

IN THE INCOME TAX APPELLATE TRIBUNAL “B” BENCH: KOLKATA

**Before: Shri P.M. Jagtap, Vice-President (KZ) and
Shri A.T. Varkey, Judicial Member**

**I.T.A No. 1655/Kol/2019
A.Y: 2012-13**

M/s. RSM Builders &
Securities Pvt. Ltd
PAN: AABCR3143B
[Appellant]

Vs. ACIT, Cir-31, Kolkata
[Respondent]

For the Appellant : Shri Anil Kochar, Advocate, Id. AR
For the Respondent : Shri Imokaba Jamir, CIT, Id.Sr.DR

Date of hearing (Virtual) : 15-10-2020
Date of pronouncement : 29 -10-2020

ORDER

Shri P.M. Jagtap, V.P:

This appeal preferred by the assessee is directed against the order of the Ld. CIT (Appeals) - 4, Kolkata dated 30-05-2019 and the solitary issue raised therein relates to assessee's claim for deduction of the amount of tax credit of MAT from the total tax liability for the purposes of charging of interest u/s. 234C of the Income-tax Act, 1961 (hereinafter referred to as the 'Act').

2. The assessee in the present case is a company. While processing the return of income filed by it u/s. 143(1) of the Act, the claim of the assessee for deduction of the amount of tax credit of MAT from the total tax liability for the purpose of charging of interest u/s. 234C was disallowed by the AO (Assessing Officer). Even the rectification application filed by the assessee making the said claim was rejected by the AO vide an order dated 28-01-2016 passed u/s. 154 of the Act.

3. Against the order of the AO passed u/s. 154 of the Act, an appeal was preferred by the assessee before the Ld. CIT(A). During the course of appellate proceedings before the Ld. CIT(A), it was submitted on behalf of the assessee that amount of tax credit on account of MAT is required to be deducted from the Income tax liability for the purpose of charging of interest u/s. 234C as per clause (v) of Explanation to sec. 234C. The Ld. CIT(A), however, noted that the deduction as claimed by the assessee for tax credit on account of MAT u/s.

115JD was allowable only with effect from AY 2013-14 and not for the AY under consideration i.e AY 2012-13. He accordingly dismissed the appeal of the assessee vide his appellate order dated 30-05-2019. Aggrieved by the order of the Ld. CIT(A), the assessee has preferred this appeal before this Tribunal.

4. We have heard the arguments of both the parties and also perused the relevant records. The Ld. Counsel for the assessee has submitted that tax credit on account of MAT was available with the assessee company as per section 115JAA of the Act and not u/s. 115JD of the Act as misconstrued by the Ld. CIT(A). He has contended that deduction for tax credit on account of MAT u/s. 115JAA was allowable to the assessee while computing the interest payable u/s. 234C of the Act as claimed by the assessee. He has submitted that the AO accordingly be directed to allow the said claim of the assessee after necessary verification. We find merit in this contention of the Ld. Counsel and since the Ld. DR also has not raised any objection in this regard, we restore this matter to the file of the AO for allowing the claim of the assessee for deduction of the amount of tax credit on account of MAT from the income-tax liability for the purpose of computing interest payable u/s. 234C of the Act after verifying that the said credit was allowable u/s. 115JAA of the Act as claimed by the assessee.

5. In the result, the appeal of the assessee is treated as allowed for statistical purpose.

Order Pronounced in the Open Court on 29th October, 2020

Sd/-

A.T. Varkey
Judicial Member

Sd/-

P.M. Jagtap
Vice President (KZ)

Dated 29-10-2020

**PP(Sr.P.S.)

Copy of the order forwarded to:

1. Appellant/Assessee: M/s. RSM Builders & Securities Pvt. Ltd, Ideal Plaza, 2nd fl., S-207, Sarat Bose Road, Minto Park, Kolkata-700 020.
2. Respondent/Revenue: TheACIT, Cir-31, Kolkata P-7 Chowringhee Sq., Kolkata-69.
3. CIT,
4. CIT(A), Kolkata.
5. DR, Kolkata Benches, Kolkata

True Copy

By Order

Assistant Registrar
ITAT Kolkata