

THE INCOME TAX APPELLATE TRIBUNAL
SURAT BENCH, SURAT
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER
AND SHRI ARJUN LAL SAINI, ACCOUNTANT MEMBER
आ.अ.सं./I.T.A No.28/Ahd/2017,
निर्धारणवर्ष/Assessment Year: 2009-10
(Hearing in Virtual Court)

Dy. Commissioner of Income tax Circle-1(1)(2), Aayakar Bhawan, Majura Gate, Surat -395001	Vs.	J.K. Paper Ltd, P.O. Central Pulp Mills Fort Songadh, Surat-394660 [PAN: AA ACT6305N]
अपीलार्थी / Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से /Assessee by	Shri Saurabh Suparkar Sr. Advocate a/with Miss Urvashi Sodhan Advocate
राजस्व की ओर से /Revenue by	Sh. Reetesh Mishra CIT-DR
सुनवाई की तारीख/ Date of hearing:	15.04.2021
उद्घोषणा की तारीख/Pronouncement on:	15.04.2021

आदेश /ORDER

PER PAWAN SINGH, JUDICAL MEMEBR:

1. This appeal by revenue is directed against the order of Commissioner of Income-tax (Appeals)-1, hereinafter referred as "Id.CIT-(A)), Surat, dated 22.05.2017 for assessment year (AY) 2009-10. The revenue has raised solitary ground of appeal which relates to deleting the disallowance of Rs. 6.78 Crore made on account of adjustment of Minimum Alternate Tax (MAT) credit entitlement while computing the book profit.
2. At the outset of hearing the Sh. Saurabh Soparkar learned Senior Counsel appearing for the assessee submits that the ground of appeal raised by the revenue is covered in favour of the assessee by the decision of Tribunal in

- assessee's own case for AY 2008-09 in ITA No. 2156/AHD/2013 dated 18.10.2016. The ld Senior Counsel for the assessee further explained that similar additions was made by assessing officer in earlier year, however, on appeal before ld. Commissioner (Appeals), the additions were deleted. The revenue file appeal before Tribunal, wherein the order of ld. Commissioner (Appeals) was upheld, copy of the order of Tribunal in AY 2008-09 in ITA No. 2156/AHD/2013 dated 18.10.2016 is filed on record. The ld Sr Counsel submits that there is no variations in the facts for the year under consideration.
3. On the contrary Sh. Reetesh Mishra learned Commissioner of Income-tax / departmental representative (CIT-DR) appearing for the revenue, after going through the grounds of appeal raised by revenue in the present appeal and the order of Tribunal for AY 2008-09 (supra) submits that he rely on the order of the assessing officer.
 4. We have considered the rival submissions of the parties and have seen the orders of the lower authorities. The assessing officer while passing assessment order dated 30.11.2016 under section 143(3) read with section 147 made disallowance of Rs. 6.78 Crore made on account of adjustment of MAT credit. The ld. CIT(A) deleted the disallowance by following the order of Tribunal for AY 2008-09 by taking view that it is a binding

precedent. We have seen that similar disallowance was made by assessing office in AY 2008-09, which was deleted by ld. CIT(A) and on further appeal by revenue before the Tribunal, the order of ld. CIT(A) was upheld in ITA No. 2156/AHD/2013 dated 18.10.2016. relevant part of the order is extracted below;

“21. We have given a thoughtful consideration to the orders of the authorities below. Let us first examine how the assessee has shown profit before tax in its Profit and Loss account for the year ended 31.03.2008, the same reads as under:-

PROFIT BEFORE DEPRECIATION & TAX	10,578.03	12,250.44
Depreciation	18 5,883.56	4,961.29
PROFIT BEFORE TAX	4,694.47	7,289.15
Provision for Current Tax	741.02	550.80
Provision for fringe Benefit Tax	135.55	105.00
MAT Credit Entitlement	(613.85)	(550.80)
PROFIT BEFORE DEFERRED TAX	4,431.75	7,184.15
Provision for Deferred Tax	254.71	2,378.38
PROFIT AFTER TAX	4,177.04	4,805.77
Debenture Redemption Reserve Written Back	209.54	484.58
Surplus brought forward	9,358.02	5,165.79
	13,744.60	10,456.14

22. The book profit for MAT/Tax liability has been computed as under:-

Particulars	Assessment Year	
	2007-08	2008-09
Return filed on		30.03.10
A. Net Profit as per P & L A/c	480574564	417709631
B. Add: statutory Additions		
Provision for Current Tax	55079728	74101907
Provision for Deferred Tax	237838836	25470312
	10500000	13554724
Provision for FBT	--	45200000

Diminution in value of Investment		
Total (B)	303418564	158326943
C. Total (A+B)	783993128	5760365574
D. Less: Permissible Deductions		
Transfer from General Reserve	--	69250000
MAT Credit Entitlement	55079728	61384689
	10500000	13554724
Provision for FBT		
Dividend income exempt u/s. 10(33)	--	216000
Total (D)	65579728	144405413
E. Book Profit (C-D)	718413400	431631161
F. MAT Liability @ 11.33% on 'E'	80605983	s 48903811

23. It can be seen that provision for current tax is shown at Rs. 7,41,01,907/- and MAT credit entitlement has been separately shown at Rs. 6,13,84,689/- It can be further seen that the provision for current tax is shown at gross amount. The net amount comes to Rs. 1,27,17,218/-, if the MAT credit entitlement is reduced from provision for current tax. If the assessee had shown the net amount of Rs. 1,27,17,218/- and added back the same for the computation of book profit, the revenue would have accepted this computation. But for the accounting principles and set guidelines both the amounts were shown separately. Considering these facts in totality, we do not find any logic in making the addition of Rs. 6,13,84,689/- for computing the book profit; the same has to be deleted. Ground No. 1 is accordingly dismissed.”

5. Considering the order of coordinate bench of Tribunal on identical issue in AY 2008-09, wherein no variation in facts is brought to our notice, hence, following the principle of consistency, we affirm the order of ld. CIT(A). Resultantly, the appeal of the revenue is dismissed.

Order was pronounced at the time of hearing on 15th April 2021, while hearing the appeal in virtual mode.

Sd/-

(Dr. ARJUN LAL SAINI)

(लेखा सदस्य/ACCOUNTANT MEMBER)

सुरत/ **Surat**, दिनांक **Dated:** 15th April 2021

Self by author

Copy of order sent to:-

Assessee/AO/Pr. CIT/ CIT (A)/ ITAT (DR)/Guard file of ITAT.

Sd/-

(PAWAN SINGH)

(न्यायिक सदस्य/JUDICIAL MEMBER)

By order

/ / **TRUE COPY** / /

Assistant Registrar, Surat