

**IN THE INCOME TAX APPELLATE TRIBUNAL  
(DELHI BENCH 'F' : NEW DELHI)**

**BEFORE SHRI O.P. KANT, ACCOUNTANT MEMBER  
and  
SHRI KULDIP SINGH, JUDICIAL MEMBER**

**ITA No.6446/Del./2017  
(Assessment Year : 2013-14)**

Addl. CIT, Special Range 7, vs. M/s. PEC Limited,  
New Delhi. 9<sup>th</sup> Floor, Hansalaya,  
15, Barakhamba Road,  
New Delhi – 110 001.

**(PAN : AA ACT0101G)**

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri Damanpreet Singh, CA  
REVENUE BY : Shri Anil Gandhi, Senior DR

Date of Hearing : 11.10.2021  
Date of Order : 20.10.2021

**ORDER**

**PER KULDIP SINGH, JUDICIAL MEMBER :**

Appellant, Addl. CIT, Special Range 7, New Delhi (hereinafter referred to as 'the Revenue') by filing the present appeal sought to set aside the impugned order dated 31.07.2017 passed by the Commissioner of Income - tax (Appeals)-38, New Delhi qua the assessment year 2013-14 on the grounds inter alia that:-

**“1. On the facts and in the circumstances of the case, the Ld. CIT (A) has erred in deleting addition on account of claim**

of CSR amounting to Rs.3,79,19,732/- without going into the merit of the case.

**2. On the facts and in the circumstances of the case, the Ld. CIT (A) has erred in deleting addition of interest on refund of income tax amounting to Rs.30,54,780/- without going into the merit of the case.”**

2. Briefly stated the facts necessary for adjudication of the controversy at hand are : Assessee company is a public sector undertaking under the Ministry of Commerce & Trade and engaged in the business of carrying on trading activities including imports and exports of various items on back to back agreement and commission basis. It is also carrying on joint operation for crushing of soya seeds, purchases and sale of rapeseed, soya meal and soya oil under agreement with associates. In addition, assessee is also engaged in hedging transactions in derivatives on commodity exchanges and importing refined edible oil for Public Distribution Scheme of Government of India.

3. During the scrutiny proceedings, Assessing Officer (AO) noticed that the assessee has debited an amount of Rs.4.58 crores to profit & loss account as Corporate Social Responsibility (CSR) expenses. Assessee was called upon to explain as to why the expenses under the head ‘Corporate Social Responsibility’ debited under ‘administrative expenses’ in the profit & loss account should not be disallowed. Declining the contentions raised by the assessee

that CSR is a business expenditure and company has to incur such expenses under the guidelines of Department of Public Enterprises, AO disallowed the same by following assessee's own case for AY 2012-13 and made addition thereof to the income of the assessee.

4. AO also made addition of Rs.30,54,780/- on account of amount of interest on refund of income-tax on the ground that interest on income-tax refund is a taxable income and thereby framed the assessment at the total income of Rs.53,26,87,432/-.

5. Assessee carried the matter before the Id. CIT (A) by way of filing appeal who has partly allowed the appeal. Feeling aggrieved, the Revenue has come up before the Tribunal by way of filing the present appeal.

6. We have heard the Id. Authorized Representatives of the parties to the appeal, gone through the documents relied upon and orders passed by the revenue authorities below in the light of the facts and circumstances of the case.

#### **GROUND NO.1**

7. Ld. CIT (A) passed the impugned order by following the order passed by the coordinate bench of the Tribunal on identical issue in case cited as **ACIT vs. Jindal Power Limited (2011) 138 DTR 313 (Raipur)(Trib.)** by returning following findings :-

*"4.3 I have carefully considered the assessment order and the submissions of appellant on this issue. The very fact that CBDT has inserted Explanation 2 to subsection (1) of Section 37 w.e.f. 01.04.2015, according to which any expenditure incurred by an assessee on the activities relating to corporate social responsibility referred to in section 135 of the Companies Act, 2013 shall not be deemed to be expenditure incurred by the assessee for the purposes of the business or profession u/s 37(1) of the Income Tax Act, 1961 means that Explanation 2 to subsection (1) of Section 37 is prospective in nature and is applicable from AY 2015-16 onwards; as such the same is not applicable to AY 2013-14. Hence, there is no case for any disallowance of CSR in the impugned AY. Reliance is placed on order of Hon'ble ITAT Raipur in the case of ACIT vs. Jindal Power Limited (2011) 138 DTR 313 (Raipur) (Trib) in which Hon'ble ITAT has given relief on identical grounds. Accordingly, assessing officer is directed to delete this addition and ground of appeal 2 is allowed."*

8. Bare perusal of the impugned order passed by the Id. CIT(A) shows that there is no scope to interfere into the findings returned by Id. CIT (A) as the Explanation 2 to sub-section (1) of section 37 is prospective in nature being effective from 01.04.2015 and as such, is not applicable to the year under assessment i.e. 2013-14. Moreover, it is incomprehensible as to how the AO has allowed the amount of Rs.79,50,000/- out of total CSR expenditure of Rs.4.58 crores and disallowed the remaining amount of Rs.3,79,19,732/-. So, we are of the considered view that Id. CIT(A) has rightly deleted the addition made by the AO by following the order passed by the Tribunal in case of **CIT vs. Jindal Power Limited** (supra), hence ground no.1 is determined against the Revenue.

**GROUND NO.2**

9. AO has made addition of Rs.30,54,7801- on account of interest on the refund of income-tax amounting to Rs.30,54,780/- on the ground that interest on income-tax refund is a taxable income.

10. Ld. CIT (A) also decided the issue in accordance with the facts and law. When Form 26AS generated by the Revenue Department only shows the amount of refund issued but fail to figure the interest on refund issued, if any, the assessee is not required to make entry in the books of account for interest. Mere addition on the basis of internal AIR is not sustainable. So, we are of the considered view that Ld. CIT (A) has decided the issue after thrashing the facts on the basis of law applicable thereto. So, ground no.2 is determined against the Revenue.

11. Resultantly, the appeal filed by the Revenue is dismissed.

**Order pronounced in open court on this 20<sup>th</sup> day of October, 2021.**

**Sd/-  
(O.P. KANT)  
ACCOUNTANT MEMBER**

**sd/-  
(KULDIP SINGH)  
JUDICIAL MEMBER**

**Dated the 20<sup>th</sup> day of October, 2021  
TS**

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT(A)-38, New Delhi
- 5.CIT(ITAT), New Delhi.

AR, ITAT  
NEW DELHI.