

आयकर अपीलीय अधिकरण "ए" न्यायपीठ पुणे में ।  
**IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, PUNE**

**(Through Virtual Court)**

**BEFORE SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER  
AND  
DR. DIPAK PANDURANG RIPOTE, ACCOUNTANT MEMBER**

**आयकर अपील सं. / ITA No.461/PUN/2017  
निर्धारण वर्ष / Assessment Year : 2011-12**

Oerlikon Balzers Coating India Pvt. Ltd.,  
EL-22, J Block, MIDC Bhosari,  
Pune-411026

PAN : AAAC13916N

.....अपीलार्थी / Appellant

**बनाम / V/s.**

Dy. Commissioner of Income Tax,  
Circle – 10, Pune

.....प्रत्यर्थी / Respondent

Assessee by : Shri Suhas P. Bora  
Revenue by : Shri S.P. Walimbe

सुनवाई की तारीख / Date of Hearing : 10-02-2022  
घोषणा की तारीख / Date of Pronouncement : 14 -02-2022

**आदेश / ORDER**

**PER S.S. VISWANETHRA RAVI, JM :**

This appeal by the assessee against the order dated 07-12-2016 passed by the Commissioner of Income Tax (Appeals)-13, Pune [‘CIT(A)'] for assessment year 2011-12.

2. The assessee raised ground Nos. 1 to 5 amongst which the only issue emanates for our consideration is as to whether the CIT(A) is justified in

confirming the addition made by the AO in respect of discrepancy in the entries in Form No. 26AS and in the books of assessee without giving opportunity to the assessee in the facts and circumstances of the case.

3. Heard both the parties and perused the material available on record. The ld. AR drew our attention to Para No. 7 of the assessment order and submitted that the AO in the assessment proceedings found discrepancies in respect of receipt of income as per Form No. 26AS and entries in the books of account to an extent of Rs.2,81,94,238/-. The AO asked to give proper reasons explaining in respect of said discrepancies and the assessee submitted reconciliation vide letter dated 04-03-2015. While considering the same, the AO held that the assessee did not furnish any cogent evidence and documentary evidences regarding the discrepancies and added an amount of Rs.2,81,94,238/- to the total income of the assessee. He argued that there was no opportunity for the assessee before the CIT(A) and the order of AO was confirmed by the CIT(A). The ld. AR placed on record an order dated 14-05-2019 in MA No. 05/PUN/2017 arising out of ITA No. 1832/PUN/2014 for A.Y. 2009-10 in assessee's own case and submitted in similar circumstances this Tribunal sought report from the AO and considering the same gave partial relief. He submits that the assessee is now ready to produce all the details in respect of discrepancies and referred to pages from 98 to 162 of the paper book and affording opportunity to the assessee in remanding the issue to the file of AO.

4. The ld. DR vehemently opposed in remanding the issue to the file of AO and submitted that the assessee could not produce any details before the AO and the CIT(A) when both the authorities below given ample opportunity to the assessee to furnish detail explanation involving the

addition. The assessee failed to submit any details and the assessee is not entitled to seek any relief by praying this Tribunal to remand the issue to the file of AO.

5. We note that the AO discussed the issue in detail in Para No. 5 of the assessment order and also the CIT(A) discussed the same in Para No. 2.1.8 of impugned order. We note that the CIT(A) considered the order of this Tribunal in assessee's own case for A.Y. 2009-10, wherein, it was reproduced in the impugned order at Page Nos. 5 and 6 basing on which the CIT(A) confirmed the order of AO in the absence of any valid explanation in respect of discrepancies found in Form No. 26AS and books of account of the assessee, but, however, we note, the said order has been modified vide order dated 14-05-2019 in MA No. 05/PUN/2017, wherein this Tribunal sought report from the AO in respect of discrepancies and allowed relief in part to the assessee. There is no dispute regarding this issue by the ld. DR. Therefore, we find force in the arguments of the ld. AR and in view of the same, we deem it proper to remand the matter to the file of AO for its fresh consideration. The assessee is liberty to file all evidences, if any, in support of its claim. The AO shall afford reasonable opportunity of hearing to the assessee and pass order, in accordance with law. Thus, the grounds raised by the assessee are allowed for statistical purpose.

6. The assessee also raised additional grounds of appeal vide letter dated 07-06-2021.

7. The ld. AR submits that the assessee is not interested to prosecute additional ground Nos. 1, 1.1, 1.2, 1.3 and 2. Accordingly, the same are dismissed as not pressed.

8. In ground No. 3 the assessee has assailed charging of interest u/s. 234A and 234B of the Act. The charging of interest u/s. 234A and 234B is mandatory and consequential. Accordingly, ground No. 3 is dismissed.

9. In the result, the appeal of assessee is allowed for statistical purpose.

Order pronounced in the open court on 14<sup>th</sup> February, 2022.

Sd/-  
(Dr. Dipak Pandurang Ripote)  
ACCOUNTANT MEMBER

Sd/-  
(S.S. Viswanethra Ravi)  
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 14<sup>th</sup> February, 2022.  
रवि

**आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-13, Pune
4. The Pr. CIT-5, Pune
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "ए" बेंच,  
पुणे / DR, ITAT, "A" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

वरिष्ठ निजी सचिव / Sr. Private Secretary  
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune