

**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA 'A' BENCH, KOLKATA**

(BEFORE SRI SANJAY GARG, JUDICIAL MEMBER & SRI RAJESH KUMAR, ACCOUNTANT MEMBER)

**I.T.A. No. 1353/Kol/2019
Assessment Year: 2014-15**

**Calcutta Dock Labour Board.....Appellant
[PAN: AAALC 0255 D]**

Vs.

ACIT, Circle-40, Kolkata.....Respondent

Appearances by:

Sh. P.J. Bhide, A/R, appeared on behalf of the Assessee.

Smt. Ranu Biswas, Addl. CIT (D/R), appeared on behalf of the Revenue.

Date of concluding the hearing : December 21st, 2021

Date of pronouncing the order : March 09th, 2022

ORDER

Per Sanjay Garg, Judicial Member:

The present appeal has been preferred by the assessee against the order passed by the Commissioner of Income Tax (Appeals)-12, Kolkata [hereinafter referred to as Id. 'CIT(A)] u/s 250 of the Income Tax Act, 1961 (hereinafter the 'Act') dated 08.03.2019 for AY 2014-15.

2. The assessee in this appeal has taken the following grounds of appeal:

"1. That on the facts and in the circumstances of the Case, the Ld. CIT(A)-12, Kolkata, erred in not adjudicating the Ground raised by the Appellant regarding its status as 'Company' as against 'Local Authority' as adopted by the Assessing Officer.

2. That on the facts and in the circumstances of the Case, the Ld. CIT(A)-12, Kolkata, erred also in not adjudicating the Grounds raised by the Appellant before him for carrying forward the business loss determined by the Assessing Officer, to the subsequent Assessment Year.

3. That the Ld. CIT(A)-12 failed to appreciate that the Grounds raised by the Appellant, involved serious question of law and not only of academic interest.

4. That the Appellant craves leave to submit further grounds and to amend, alter or otherwise modify the grounds already taken, if necessary, before or at the time of hearing of the Appeal."

3. **Ground No.-1**

The grievance put vide ground no. 1 by the assessee is that the Id. CIT(A) has not adjudicated the issue relating to the status of the assessee as 'Company' as against the 'Local Authority' adopted by the Assessing Officer.

4. The Id. Counsel for the assessee, in this respect, has submitted that the assessee 'Calcutta Dock Labour Board' was constituted on 02.09.1972 in terms of Section 6(a) of the Dock Workers (Regulation of Employment) Act, 1948.

4.1. He has further submitted that in the records of the Income Tax Department, the status of the assessee has been taken as that of 'Local Authority'. He has further invited our attention to Section 5A(2) of the Dock Workers (Regulation of Employment) Act, 1948 to submit that the assessee Board, as per the provisions of the said Act, is a body corporate established under the Central Act. He has further submitted that this issue was raised before the Id. CIT(A) that the assessee's status be treated as a 'Company' being body corporate instead of a 'Local Authority'.

5. We find that the Id. CIT(A) has not adjudicated upon this ground observing that since no incidence of tax is involved for the year under consideration, hence, this ground taken by the assessee was academic in nature.

6. The assessee now has come in appeal before this Tribunal raising the said ground. We find that as per the pleading of the assessee, the assessee Board was constituted on 02.09.1972 and since then the status of the assessee has continuously been treated as that of 'Local Authority' as per the return/records submitted by the assessee to the Income Tax Department. The assessee has mentioned the status of the assessee as 'Local Authority' as per the return/records/PAN Number etc. of the assessee in the records of the Department. If the assessee has any concern regarding its status/change of status, it can move an application in this respect to the AO/competent authority for necessary amendment/change regarding the status of the assessee in the records/PAN Number with the Income Tax Department. A perusal of the Assessment Order reveals that neither this issue has been raised by the assessee before the AO nor there is any tax effect in this respect. Therefore, this cannot be said to be any issue in

dispute. The proper course for the assessee is to approach the Income Tax Authorities as observed above.

7. Since this is not an issue in dispute, therefore, no further adjudication is required. Accordingly ground no. 1 is dismissed.

8. **Ground No.-2**

The grievance put by the assessee vide ground no. 2 is that the Id. CIT(A) failed to adjudicate the ground raised by the assessee in respect of carrying forward of the business loss determined by the AO. The assessee filed its return of loss before the AO which was duly accepted in the assessment carried out u/s 143(3) of the Act. Now, the grievance of the assessee is that the Id. AO has not specifically written in the Assessment Order that the assessee will be entitled to carry forward of the losses.

9. The Id. CIT(A), in this respect, has noted the fact that the returned loss has been accepted and made a part of the order u/s 143(3) of the Act means that the assessee is entitled to all benefits under the Income Tax Act available in case of the assessed loss. Now, the assessee wants that the AO should have specifically written that the assessee is entitled to carry forward of losses.

10. In our view, when the losses claimed by the assessee have been duly determined and accepted by the AO, the assessee accordingly is entitled to all the benefits in respect of losses or determined as per the provisions of the Income Tax Act, 1961.

11. Since there is no observation made by the AO that the assessee will not be entitled to carry forward of the losses, therefore, there should not be any grievance of the assessee in this respect. Moreover, the issue relating to the admissibility of carry forward of losses is to be seen in the assessment year in which such carry forward is claimed that is the subsequent assessment year. The assessment year under consideration is AY 2014-15 and as the facts suggest, the said issue already would have been adjudicated in the assessment proceedings for AY 2015-16 by this time. We do not find that the issue raised by the assessee is, in any manner, issue in dispute. Therefore, no further adjudication is required. Thus, ground no. 2 is accordingly dismissed.

12. In the result, the appeal of the assessee is hereby treated as dismissed.

Order is pronounced in the open court on 09.03.2022.

Sd/-
[Rajesh Kumar]
Accountant Member

Sd/-
[Sanjay Garg]
Judicial Member

Dated: 09.03.2022

Bidhan (P.S.)

Copy of the order forwarded to:

1. **Calcutta Dock Labour Board, 6, Fairlie Warehouse, Strand Road, Ground Floor, Kolkata-700 001.**
2. **ACIT, Circle-40, Kolkata.**
3. CIT(A)-12, Kolkata
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata.

True copy

By order

Senior Pvt. Secy./DDO/H.O.O.
ITAT, Kolkata Benches,
Kolkata

Date of Dictation	16.02.2022
Date on which the typed order is placed before the dictating Member and other Member	07.03.2022
Date on which the order came back to Sr. P.S.	11.03.2022
Date on which file(s) go(es) to the Bench Clerk	11.03.2022
Date on which file(s) go(es) to the O.S.	
Date of despatch of the order	