

**IN THE INCOME TAX APPELLATE TRIBUNAL "B"**  
**BENCH KOLKATA**

**Before Shri Sanjay Garg, Judicial Member and Shri Girish Agrawal, Accountant Member**

**I.T.A. No.1295/Kol/2018**  
Assessment Year: 2013-14

**M/s Shri Badrinarain Alloys & Steels Ltd.....Appellant**  
Halwasiya Mansion, 4<sup>th</sup> Floor,  
6/2, Moira Street,  
Kolkata-700017.  
**[PAN: AAEC2878K]**

**vs.**

**DCIT, Circle-3(1), Kolkata.....Respondent**

**Appearances by:**

None appeared on behalf of the appellant.

Shri Amol Kamat, CIT-DR, appeared on behalf of the Respondent.

Date of concluding the hearing : March 28, 2022

Date of pronouncing the order : March 28, 2022

**ORDER**

**Per Sanjay Garg, Judicial Member:**

The present appeal has been preferred by the assessee against the order dated 16.03.2018 of the Principal Commissioner of Income Tax-1, Kolkata [hereinafter as 'PCIT']. The assessee in this appeal has agitated against the action of the PCIT in setting aside the assessment order dated 02.03.2016 on the limited issue of allowability of provision for power and fuel by way of invoking his revision jurisdiction u/s 263 of the Income Tax Act (hereinafter referred to as the 'Act').

2. No one has put in appearance on behalf of the assessee despite notice through RPAD as well as through e-mail. In view of this, we proceed to decide the present appeal after going through the records and after hearing the ld. CIT-DR.

3. The brief facts of the case are that the ld. PCIT noted that in the assessment order, the Assessing Officer has allowed the provision made in respect of expenses of Rs.5,39,11,891/- for power and fuel payable to Damodar Valley Corporation (DVC). The ld. PCIT observed that since the liability for the aforesaid expenditure was not crystallized during the year, therefore, the Assessing Officer wrongly allowed the

aforesaid provision made on account of power and fuel charges payable. The ld. PCIT further noted that the assessee himself had disputed the aforesaid enhancement in the power tariff relating to the aforesaid expenditure and litigated in this respect upto the level of Hon'ble Supreme Court. The Hon'ble Supreme Court finally decided the issue in favour of the DVC and against the assessee vide order dated 18.01.2017. The ld. PCIT, therefore, observed that the liability had crystallized in the financial year 2016-17 relevant to assessment year 2017-18. He, therefore, set aside the assessment order on this limited issue directing the Assessing Officer to pass fresh assessment order on the limited issue relating to the allowability of provision for expenses on account of enhancement in power and fuel tariff.

4. We have gone through the records and heard the ld. CIT-DR. We find force in the contention of the ld. CIT-DR that since the assessee himself was not convinced with the aforesaid enhancement in power tariff and disputed it and further litigated in this respect upto the level of Hon'ble Supreme Court, therefore, it cannot be said that the liability was ascertained in the assessment year under consideration i.e. A.Y 2013-14, which only crystallized on 18.01 2017 by the order of the Hon'ble Supreme Court. In view of this, we do not find any infirmity in the order of the PCIT and the same is upheld. The appeal of the assessee is hereby dismissed.

5. In the result, the appeal of the assessee is dismissed.

***Kolkata, the 28<sup>th</sup> March, 2022.***

Sd/-  
**[Girish Agrawal]**  
**Accountant Member**

Sd/-  
**[Sanjay Garg]**  
**Judicial Member**

Dated: 28.03.2022.

RS

*Copy of the order forwarded to:*

1. M/s Shri Badrinarain Alloys & Steels Ltd
2. DCIT, Circle-3(1), Kolkata

3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches