

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'E' BENCH  
MUMBAI**

**BEFORE: SHRI M.BALAGANESH, ACCOUNTANT MEMBER  
&  
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER**

**ITA No.3217/Mum/2019  
(Assessment Year 2010-11:)**

M/s. Teksons Pvt. Ltd., Kolshet Road Kapurwawdi Thane- 400 607	Vs.	DCIT (5)(3)(2) Aayakar Bhavan Mumbai – 400 020
<b>PAN/GIR No.AABCT0522A</b>		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

Assessee by	Shri Nishit Gandhi & Ms. Akshita Bhandari
Revenue by	Shri B.K. Bagchi
<b>Date of Hearing</b>	<b>16/06/2022</b>
<b>Date of Pronouncement</b>	<b>27/06/2022</b>

**आदेश / O R D E R**

**PER M. BALAGANESH (A.M):**

This appeal in ITA No.3217/Mum/2019 for A.Y.2010-11 arises out of the order by the Id. Commissioner of Income Tax (Appeals)-10, Mumbai in appeal No.CIT(A)-10, Mumbai/10558/2013-14 dated 25/02/2019 (Id. CIT(A) in short) against the order of assessment passed u/s.143(3) of the Income Tax Act, 1961 (hereinafter referred to as Act) dated 06/03/2013 by the Id. Dy. Commissioner of Income Tax, Circle 5(3), Mumbai (hereinafter referred to as Id. AO).

2. Though the assessee had raised various grounds before us, the preliminary ground raised is that there is a violation of principles of natural justice committed by the Id. CIT(A) while dismissing the appeal of

the assessee. As this aspect goes to the root of the matter, we deem it fit and appropriate to address the same first.

3. We have heard the rival submissions and perused the materials available on record. We find that the assessee company is engaged in the business of manufacturing of industrial radiators. The return of income for the Asst Year 2010-11 was filed by the assessee on 12.10.2010 declaring total income of Rs.4,87,49,360/- under normal provisions of the Act and Rs. 3,64,96,383/- as book profits u/s 115JB of the Act. The assessment was completed u/s 143(3) of the Act on 6.3.2013 determining total income of Rs. 11,04,32,408/- under normal provisions of the Act and book profits of Rs. 11,66,77,218/- u/s 115JB of the Act after making the following additions/disallowances :-

- a) Disallowance u/s 14A of the Act – Rs 5,49,353/-
- b) Dividend from Cooling Systems Flexible Pte Ltd – Rs 4,27,21,681/-
- c) Difference in AIR reconciliation – Rs 1,84,385/-
- d) Disallowance u/s 40(a)(ia) of the Act – Rs 1,30,54,298/-
- e) Foreign Exchange Fluctuation Loss – Rs 17,19,494/-
- f) Disallowance u/s 43B of the Act – Rs 34,53,837/-
- g) Disallowance of Brought Forward Losses or Depreciation for computation of book profit u/s 115JB of the Act – Rs 3,44,90,347/-

4. During the course of appellate proceedings, the assessee furnished various additional evidences which were duly forwarded to the Id. AO by the Id. CIT(A) for seeking a remand report. The mere fact that the remand report is called for from the Id. AO proves that the additional evidences were initially admitted by the Id. CIT(A) and forwarded to the Id. AO in terms of Rule 46A of the Income Tax Rules and remand report called thereon. We find that the Id. AO in the remand report had recommended the admission of the various additional evidences filed by the assessee. This fact is even recorded by the Id. CIT(A) in para 7.3.4.

page 10 of his order. Despite the recommendation of the Id. AO and despite his initial admission of additional evidences which is evident from the fact that a remand report is called for from the Id. AO, the Id. CIT(A) merely brushed aside all the additional evidences and held that those additional evidences cannot be admitted. We find that the assessee had submitted that the evidences were gathered subsequent to completion of assessment proceedings and hence could not be furnished earlier. This crucial fact has been overlooked by the Id. CIT(A) in the instant case. Accordingly, we hold that the Id. CIT(A) committed gross violation of principles of natural justice in the instant case. Since the additional evidences filed by the assessee need to be addressed by the Id. AO , we find that in the interest of fair adjudication of the issues in dispute, the entire appeal deserves to be remanded back to the file of Id. AO for denovo adjudication and the Id. AO is directed to frame the assessment afresh qua the issues in dispute before us, in the light of evidences submitted by the assessee. Accordingly, the entire grounds raised by the assessee are set aside to the file of Id. AO for denovo adjudication and allowed for statistical purposes.

**5. In the result, the appeal of the assessee is allowed for statistical purposes.**

Order pronounced on 27/06/2022 by way of proper mentioning in the notice board.

**Sd/-**  
**(RAHUL CHAUDHARY)**  
JUDICIAL MEMBER

**Sd/-**  
**(M.BALAGANESH)**  
ACCOUNTANT MEMBER

Mumbai; Dated 27/06/2022  
KARUNA, sr.ps

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent.
3. The CIT(A), Mumbai.
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)  
**ITAT, Mumbai**