

आयकर अपीलिय अधिकरण, 'सी' न्यायपीठ, चेन्नई।  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**'C' BENCH: CHENNAI**

श्री महावीर सिंह, उपाध्यक्ष, एवं  
डॉ। दीपक पी. रिपोटे, लेखा सदस्य के समक्ष  
**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND**  
**DR. DIPAK P. RIPOTE, ACCOUNTANT MEMBER**

आयकर अपीलसं./ITA Nos.91 & 92/Chny/2022  
निर्धारणवर्ष/Assessment Years: 2016-17 & 2017-18

M/s.P.S.K. Engineering –  
Construction & Co.,  
472, Naducombai Post,  
Kalappanaickenpatty,  
Namakkal-637 404.

v. The Asst. Director of Income  
Tax, Centralized Processing  
Centre, Bangalore.

[PAN:AAGFP 2483 E ]  
(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by : Mr.S.Sridhar, Adv.  
प्रत्यर्थी की ओर से /Respondent by : Mr.HemaBhupal, JCIT  
सुनवाईकीतारीख/Date of Hearing : 18.08.2022  
घोषणाकीतारीख /Date of Pronouncement : 18.08.2022

**आदेश / ORDER**

**PER DR. DIPAK P. RIPOTE, ACCOUNTANT MEMBER:**

These two appeals filed by the assessee are directed against the order of the Commissioner of Income Tax (Appeals)-19, Chennai, dated 02.02.2022 emanating from the order of the Asst. Director of Income Tax, Centralized Processing Centre, Bangalore, u/s.143(1) of the Income Tax Act, 1961 and pertains to assessment years 2016-17 & 2017-18.

2. The assessee has raised the following grounds of appeal:

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**For the AY 2016-17:**

1. The order of the CIT (Appeals) - 19, Chennai dated 02.02.2022 in DIN & order No. ITBA/APL/M/250/2021-22/1039315759(I) for the above assessment year is contrary to law, facts, and in the circumstances of the case.
2. The CIT(A) erred in confirming the disallowance of the claim of deduction u/s 80 IA of the Act by the CPC at Bangalore for want of audit report in Form No.10CCB while processing the return of income for issuing the intimation order dated 12.06.2017 without assigning proper reasons and justification.
3. The CIT(A) failed to appreciate that the limited scope of processing the return u/s 143(1) of the Act was completely overlooked and brushed aside and ought to have appreciated that the intimation order was wrongly construed as final assessment order, thereby vitiating the rejection of the claim of deduction under consideration in the computation of taxable total income.
4. The CIT(A) failed to appreciate that the filing of the audit report under consideration along with the filing of the return of income was wrongly considered as mandatory and ought to have appreciated that the judicial trend on this issue was completely overlooked and brushed aside.
5. The CIT(A) failed to appreciate that in any event, the law laid down by the Supreme Court relied upon before him in the appellate proceedings was categorical and ought to have appreciated that the said audit report should be made available before completion of the final assessment order while in this regard, further ought to have appreciated that the intimation order could not be reckoned as final assessment order.
6. The CIT(A) failed to appreciate that in any event the entire re-computation of tax liability on various facets was wrong, erroneous, unjustified, incorrect, invalid and not sustainable both on facts and in law.
7. The CIT(A) ought to have appreciated that the claim for deduction in any event could be processed as a fresh claim in the first appeal proceedings and ought to have appreciated that the first appellate proceedings before him should always be reckoned as continuation of assessment proceedings inasmuch as further ought to have appreciated that having gone through the entire facts pertaining to the claim of deduction u/s 80 IA of the Act including the audit report filed in support, the claim for deduction was wrongly rejected.
8. The CIT(A) failed to appreciate that there was no proper opportunity given before passing of the impugned order and any order passed in violation of the principles of natural justice would be nullity in law.
9. The Appellant craves leave to file additional time of hearing.

**For the AY 2017-18:**

1. The order of the CIT (Appeals) - 19, Chennai dated 02.02.2022 in DIN & order No. ITBA/APL/M/250/2021-22/1039326898(I) for the above assessment year is contrary to law, facts, and in the circumstances of the case.
2. The CIT(A) erred in confirming the disallowance of the claim of deduction u/s 80 IA of the Act by the CPC at Bangalore for want of audit report in Form No.10CCB while

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*processing the return of income for issuing the intimation order dated 21.03.2019 without assigning proper reasons and justification.*

*3. The CIT(A) failed to appreciate that the limited scope of processing the return u/s 143(1) of the Act was completely overlooked and brushed aside and ought to have appreciated that the intimation order was wrongly construed as final assessment order, thereby vitiating the rejection of the claim of deduction under consideration in the computation of taxable total income.*

*4. The CIT(A) failed to appreciate that the filing of the audit report under consideration along with the filing of the return of income was wrongly considered as mandatory and ought to have appreciated that the judicial trend on this issue was completely overlooked and brushed aside.*

*5. The CIT(A) failed to appreciate that in any event, the law laid down by the Supreme Court relied upon before him in the appellate proceedings was categorical and ought to have appreciated that the said audit report should be made available before completion of the final assessment order while in this regard, further ought to have appreciated that the intimation order could not be reckoned as final assessment order.*

*6. The CIT(A) failed to appreciate that in any event the entire re-computation of tax liability on various facets was wrong, erroneous, unjustified, incorrect, invalid and not sustainable both on facts and in law,*

*7. The CIT(A) ought to have appreciated that the claim for deduction in any event could be processed as a fresh claim in the first appeal proceedings and ought to have appreciated that the first appellate proceedings before him should always be reckoned as continuation of assessment proceedings inasmuch as further ought to have appreciated that having gone through the entire facts pertaining to the claim of deduction u/s 80 IA of the Act including the audit report filed in support, the claim for deduction was wrongly rejected.*

*8. The CIT (A) failed to appreciate that there was no proper opportunity given before passing of the impugned order and any order passed in violation of the principles of natural justice would be nullity in law.*

*9. The Appellant craves leave to file additional grounds/arguments at the time of hearing.*

**3.** The Ld.AR submitted that the ADIT, CPC, Bangalore, has disallowed the assessee's claim u/s.80IA of the Act, without giving any opportunity to the assessee. The Ld.AR specifically stated that no reason has been mentioned in the order passed u/s.143(1) of the Act. Therefore, the order passed u/s.143(1) is erroneous. The Ld.AR also submitted that the assessee had filed Form No.10CCB, much before the order u/s.143(1) was passed by the ADIT, CPC, Bangalore. Therefore, the Ld.AR relying on

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various judicial decisions claimed that assessee's claim of deduction u/s.80IA may be allowed.

**4.** On the other hand, the Ld.DR relied on the order of the Ld.CIT(A). We have heard both the parties and perused the records. The assessee had filed return of income on 29.09.2016 and due date for filing return of income was 17.10.2016. The said return of income was processed u/s.143(1) of the Act, on 12.06.2017, by Centralized Processing Centre of Income Tax Department. Accordingly, an order u/s.143(1) of the Act, dated 12.06.2017 was passed by Asst. Director of Income Tax, Centralized Processing Centre (CPC). In the said order, assessee's claim of deduction u/s.80IA of the Act, was denied. In the impugned order, following reason is given for denying the assessee's claim "*Deductions under Chapter-VIA will not be allowed unless respective schedules are filled properly*".

**5.** We have perused the entire order but could not understand from the order whether opportunity was granted to the assessee before denying the deduction u/s.80IA of the Act. The Id.DR could not answer whether opportunity was granted or not.

**6.** Every quasi-judicial order has to be a speaking order and it must be passed only after giving sufficient opportunity of hearing to the assessee. In this case, it seems that opportunity of hearing was denied to the

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assessee. It is also observed that the reasons mentioned in the impugned order are cryptic. Therefore, in the interest of justice, we set aside the impugned order u/s.143(1) of the Act, to the AO with a direction to pass the order afresh after giving opportunity to the assessee as per law.

**7.** The facts for AY 2017-18 are identical to the facts of AY 2016-17. Therefore, our decision for AY 2016-17 mentioned in the earlier paragraphs will apply mutatis mutandis to AY 2017-18. Accordingly, appeal for AY 2017-18 is allowed for statistical purpose.

**8.** In the result, the appeals filed by the assessee are allowed for statistical purpose.

Order pronounced on the 18<sup>th</sup> day of August, 2022, in Chennai.

**Sd/-**  
(महावीर सिंह)  
(MAHAVIR SINGH)  
उपाध्यक्ष/VICE PRESIDENT

**Sd/-**  
(डॉ।दीपक पी. रिपोटे)  
(DR. DIPAK P. RIPOTE)  
लेखासदस्य/ACCOUNTANT MEMBER

चेन्नई/Chennai,  
दिनांक/Dated: 18<sup>th</sup> August, 2022.  
**TLN**

आदेशकीप्रतिलिपिअग्रेषित/**Copy to:**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त (अपील)/CIT(A)
4. आयकरआयुक्त/CIT
5. विभागीयप्रतिनिधि/DR
6. गार्डफाईल/GF