

**IN THE INCOME TAX APPELLATE TRIBUNAL GUWAHATI BENCH,
 (VIRTUAL HEARING AT KOLKATA)**

**[BEFORE SHRI MANISH BORAD, ACCOUNTANT MEMBER &
 SHRI SONJOY SARMA, JUDICIAL MEMBER]**

I.T.A. No. 173/GTY/2019
 Assessment Year: 2015-16

SRD Nutrients Pvt. Ltd. Industrial Area, Mangaldal, Darrang, Assam-784125. (PAN: AAGCS 2647 J)	Vs.	DCIT, Circle-Tezpur
Appellant		Respondent

Date of Hearing	06.07.2022
Date of Pronouncement	28.09.2022
For the Appellant	Shri Uttam Kumar Borthakur, Advocate
For the Respondent	Shri N.T. Sherpa, JCIT

ORDER

PER SONJOY SARMA, JM:

The present appeal has been preferred by the assessee against the order of Id. CIT(A)-1 Guwahati dated 18.01.2019 [hereinafter referred to as 'CIT'] passed u/s 250 of the Income Tax Act (hereinafter referred to as the 'Act'). The assessee in this appeal has taken the following grounds of appeal:

"1. For that on the facts and in the circumstances of the case, the Id. CIT(A), Guwahati-1, Guwahati ('the CIT(A)' for short hereafter) has erred in law and in fact in dismissing ground no. 2 before her –

a. by holding that there was no merit in the contention that MAT credit due under section 115JAA was not allowed to the appellant;

b. without proper opportunity of being heard in as much as the said authority did not call for any particulars at all during the course of hearing;

c. without even calling for the assessment records from the Id. Assessing Officer ('the AO' for short hereafter); and

d. by putting the appellant in a worse situation than before, especially in view of the rectification petition under section 154 pending before the Id. AO on the same issue, a fact clearly mentioned before her.

2. For that on the facts and in the circumstances of the case, Hon'ble Tribunal may be pleased to consider and allow the aforesaid MAT credit claimed at Rs. 3289929/- in the return after granting leave to submit all relevant evidence, including additional evidence, if any.

3. Without prejudice to the above, the Hon'ble Tribunal may be pleased to set aside the order of the ld. CIT(A), as regards the ground no. 2 before her, and remit the matter to the authorities below, for a fresh disposal of the matter after allowing the appellant proper opportunities of being heard.

4. For that the appellant begs leave of putting forward additional ground/grounds in addition to, modification/substitution of the above ground of appeal before or at the time of hearing."

2. At the outset, the ld. counsel for the assessee submitted that since the ld. CIT(A) did not allow MAT credit due u/s 115JAA of the Act a sum of Rs. 32,89,929/- to the assessee and did not call for any particulars during the course of hearing and order was passed without calling for assessment records from the AO, therefore, the order was bad in law and he further submitted before us that one more opportunity should be given to the assessee and the issue raised in the instant appeal may be set aside to the file of ld. AO. He further submitted that a rectification petition u/s 154 of the Act for the assessment year in question is still pending before the ld. AO for adjudication on the same issue, therefore, the Tribunal may be remand back the matter to the AO to decide the assessee's MAT credit claim of Rs. 32,89,929/- and may grant leave to submit all relevant evidences in support of its claim.

3. The ld. DR was fair enough not to oppose such request made by the ld. AR. We, therefore, under the given facts and circumstances of the case are of the considered view that since the impugned order passed by the ld. CIT(A) did not decide the issue and he did not call for assessment records from the ld. Assessing Officer. Therefore, we in the interest of justice set aside the impugned order and remit it back to the file of ld. AO for deciding the issue raised before us by way of speaking order. We also direct the assessee to furnish such evidence in support of its claim and remain vigilant in receiving the notice of hearing from the ld. AO. It is also clarified that the assessee should not request for any adjournment unless otherwise required for reasonable cause and should file all necessary evidence/documents in support of its claim so as to facilitate the ld. AO for passing the

order in accordance with law. Needless to mention that the assessee should be given proper opportunity of being heard.

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

Order is pronounced in the open court on 28.09.2022

Sd/-

(Manish Borad)
Accountant Member

Sd/-

(Sonjoy Sarma)
Judicial Member

Dated: 28.09.2022

Biswajit, Sr. PS

Copy of the order forwarded to:

1. Appellant– SRD Nutrients Pvt. Ltd.
2. Respondent – DCIT, Circle-Tezpur
3. CIT(A),
4. CIT ,
5. DR, ITAT,

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata