

आयकर अपीलीय अधिकरण
कोलकाता 'सी' पीठ, कोलकाता में
**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA 'C' BENCH, KOLKATA**

श्री संजय गर्ग, न्यायिक सदस्य
एवं

डॉ. मनीष बोराड, लेखा सदस्य
के समक्ष

**Before
SRI SANJAY GARG, JUDICIAL MEMBER
&
DR. MANISH BORAD, ACCOUNTANT MEMBER**

**I.T.A. No.: 313/Ko1/2022
Assessment Year: 2015-16**

***M/s. Alpine Distilleries (P) Ltd.....Appellant
[PAN: AADCA 9296 Q]***

Vs.

ACIT, Circle-2(1), Kolkata.....Respondent

Appearances by:

Sh. Rajeeva Kumar, Adv., appeared on behalf of the Assessee.

Sh. Partha Pratim Barman, Addl. CIT, appeared on behalf of the Revenue.

Date of concluding the hearing : October 11th, 2022

Date of pronouncing the order : October 31st, 2022

ORDER

Per Manish Borad, Accountant Member:

This appeal filed by the assessee pertaining to the Assessment Year (in short "AY") 2015-16 are directed against the order passed u/s 250 of the Income Tax Act, 1961 (in short the "Act") by Id. Commissioner of Income-tax (Appeals)-National Faceless Appeal Centre (NFAC), Delhi [in short Id. "CIT(A)"] dated 30.03.2022 arising out of the assessment order framed u/s 143(3) r.w.s. 147 of the Act dated 06.12.2019.

2. The assessee is in appeal before the Tribunal raising the following grounds:

“1. That under the facts and circumstances of the case, the Ld. CIT(A) erred in passing order ex-parte.

2. That under the facts and circumstances of the case, the Ld. CIT(A) erred in confirming addition of a sum of ₹13,41,578/- made by the AO in terms of section 43B of the Income Tax Act, 1961 for non-payments of entry tax and service tax. The addition is unjustified and needs to be deleted.

3. That under the facts and circumstances of the case, the Ld. CIT(A) erred in confirming addition of a sum of ₹21,188/- made by the AO for the interest paid under 201(1A)/206C(7), holding the same to be penal in nature. The addition is unjustified and needs to be deleted.

4. That under the facts and circumstances of the case, the Ld. CIT(A) erred in confirming addition of a sum of ₹3,61,032/- made by the AO for the interest paid on Entry Tax, professional Tax, Services Tax and Sales Tax, holding the same to be penal in nature. The addition is unjustified and needs to be deleted.

5. That under the facts and circumstances of the case, the Ld. CIT(A) erred in confirming addition of a sum of ₹14,38,619/- made by the AO under sec.36(1)(va) of the Income Tax Act, 1961 for the delay in payment of PF and ESI. The addition is unjustified and needs to be deleted.

6. That under the facts and circumstances of the case, the Ld. CIT(A) erred in confirming addition a sum of ₹65,666/- for the payments made to Excise Department, holding the same to be penal in nature. The addition is unjustified and needs to be deleted.

7. The assessee craves leave to add, alter, amend or withdraw any ground or grounds of appeal before or at the time of hearing.”

3. At the outset, ld. Counsel for the assessee submitted that in the instant appeal, the impugned order is *ex-parte* and the assessee failed to get sufficient opportunity to give the submissions and file relevant documents in support of its grounds raised before

ld. CIT(A). Prayer was made to restore all the issues in the instant appeal to the ld. CIT(A) for fresh adjudication.

4. Ld. D/R was fair enough in not raising any objection if the issues raised in the instant appeal is restored to ld. CIT(A).

5. We have heard rival contentions and perused the records placed before us. From perusal of the impugned order, we find that there was no appearance on behalf of the assessee before ld. CIT(A) and the impugned order was passed *ex-parte*.

6. We, therefore, considering the prayer made by the ld. Counsel for the assessee and no objection being raised by ld. D/R, restore all the issues in the instant appeal to the ld. CIT(A) for fresh adjudication and to pass a speaking order after considering the submissions as well as the relevant documents to be filed by the assessee on being provided adequate opportunity and to decide in accordance with law. The assessee is directed to remain vigilant and file necessary documents, if considered, in support of its grounds of appeal and should not take adjournment, unless otherwise required for reasonable cause.

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

Kolkata, the 31st October, 2022.

Sd/-
[Sanjay Garg]
Judicial Member

Sd/-
[Manish Borad]
Accountant Member

Dated: 31.10.2022

Bidhan (P.S.)

Copy of the order forwarded to:

- 1. M/s. Alpine Distilleries (P) Ltd., Vill & PO Mahanad, PS-Poolba, Hooghly-712 149.**
- 2. ACIT, Circle-2(1), Kolkata.**
3. CIT(A), NFAC, Delhi.
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata.

True copy

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata