

आयकर अपीलिय अधिकरण, 'ए' न्यायपीठ, चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
'A' BENCH, CHENNAI

श्री महावीर सिंह, उपाध्यक्ष एवं श्री जी. मंजुनाथ, लेखा सदस्य के समक्ष

**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND  
SHRI G. MANJUNATHA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: **399/CHNY/2021**

निर्धारण वर्ष/Assessment Year: 2015-16

**Mira Alloy Steels Pvt. Ltd.,**  
123, Sathy Road,  
Kurumbapalayam,  
Coimbatore - 641 107.

**The Income Tax Officer,**  
vs. Corporate Ward-3,  
Coimbatore - 18.

**PAN: AAICS 1449J**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri R. Vijayaraghavan, Advocate

प्रत्यर्थी की ओर से/Respondent by

: Shri R. Mohan Reddy, CIT

सुनवाई की तारीख/Date of Hearing

: 04.01.2023

घोषणा की तारीख/Date of Pronouncement : 04.01.2023

**आदेश / O R D E R**

**PER MAHAVIR SINGH, VICE PRESIDENT:**

This appeal by the assessee is arising out of the Revision order passed by the Principal Commissioner of Income Tax, Coimbatore u/s.263 of the Income Tax Act, 1961 (hereinafter the 'Act'), vide C.No.120/51/PCIT-1/2019-20 dated 03.03.2020. The assessment was framed by the Income-tax Officer, Corporate Ward-3,

Coimbatore for the assessment year 2015-16 u/s.143(3) of the Act, vide order dated 30.06.2017.

2. At the outset, it is noticed that this appeal of assessee is barred by limitation by 528 days. The facts are that the impugned order was communicated to the assessee on 11.03.2020 and appeal before Tribunal was to be filed on or before 09.05.2020 whereas actually appeal filed before Tribunal only on 20.10.2021 thereby there is a delay of 528 days. The assessee has filed condonation petition stating that this delay is due to pandemic period of Covid 19 and subsequent events and the Hon'ble Supreme Court in Miscellaneous Application No.665 of 2021 vide order dated 23.03.2020 has given directions that the delay are to be condoned during this period 15.03.2020 to 14.03.2021 and they have condoned the delay up to 28.02.2022 in Miscellaneous Application No.21 of 2022 vide order dated 10.01.2022. Since the Hon'ble Supreme Court has condoned the delay during the said period, respectfully following the same we condone the delay and admit the appeals.

3. The only issue in this appeal of assessee is against the revision order passed by PCIT u/s 263 of the Act setting aside the

assessment order framed by AO u/s.143(3) of the Act dated 30.06.2017 holding the same as erroneous and prejudicial to the interest of Revenue.

4. Brief facts are that the original assessment was completed by ITO, Corporate Ward-3, Coimbatore for the relevant assessment year 2015-16 u/s.143(3) of the Act vide order dated 30.06.2017. Subsequently, the PCIT on going through the assessment order and case records noticed that the company has not deducted TDS on the amount of Rs.32,17,944/- and therefore 30% of this amount is to be disallowed by invoking the provisions of section 40(a)(ia) of the Act. For this, the PCIT issued show cause notice dated 26.02.2020 and observed as under:-

“2.2 During the relevant A.Y. your company has claimed Rs.4,92,68,608 towards contract and processing charges under other expenses whereas TDS for Rs.4,60,50,664 only had been deducted and hence, it is required to deduct TDS on the balance amounting to Rs.32,17,944 (Rs.4,92,68,608 less 4,60,50,664). Hence, 30% for the same amounting to Rs.9,65,383 is to be disallowed u/s 40(a)(ia) of the I.T.Act, 1961.”

Accordingly, he required the assessee to explain as to why the assessment order framed by the AO be not set aside for reframing the assessment. The assessee before AO replied that the TDS on this amount of Rs.32,17,944/- is not to be deducted as the parties

has filed declaration received u/s.194C(6) of the Act before the ITO-TDS. The PCIT was not convinced with the reply of assessee and accordingly, he directed the AO to carry out factual verification as the assessee has not produced any declaration or whatsoever in the proceedings before him u/s.263 of the Act. Hence, he held that the assessment order framed suffers in as much as it is erroneous and prejudicial to the interest of Revenue. Hence, he directed the AO to redo assessment after verification of facts discussed above with regard to non-deduction of TDS. Aggrieved, assessee came in appeal before the Tribunal.

5. We have heard rival contentions and gone through facts and circumstances of the case. Before us, now only limited plea made by Id.counsel for the assessee is that the assessee has received declaration u/s.194C(6) of the Act from parties to whom the payment have been made in regard to this amount of Rs.32,17,944/-. He only requested that he has no objection in case, the AO verifies but only limited to the non-deduction of TDS on this differential amount of Rs.32,17,944/- as depicted in the show-cause notice as reproduced above in para 4. On the other hand, the Id.CIT-DR has not objected to amending the directions of PCIT.

5.1 We confirm the revision order passed by PCIT but direct the AO to carry out verification in regard to non-deduction of TDS on sum of Rs.32,17,944/- i.e., differential amount being claimed by assessee at Rs.4,92,68,608/- towards contracts and processing charges under 'other expenses' whereas TDS was deducted only on sum of Rs.4,60,50,664/-. The AO will verify the declarations received by assessee from certain parties u/s.194C(6) of the Act and will decide the issue as per law in regard to this issue only. Accordingly, we confirm the revision order and dismiss the appeal of assessee with the above directions.

6. In the result, the appeal filed by the assessee is dismissed with the above directions.

Order pronounced in the open court on 4<sup>th</sup> January, 2023 at Chennai.

Sd/-

(जी. मंजुनाथ)

**(G. MANJUNATHA)**

लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-

(महावीर सिंह)

**(MAHAVIR SINGH)**

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 4<sup>th</sup> January, 2023

**RSR**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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|------------------------|--------------------------|-----------------------------|
| 1. अपीलार्थी/Appellant | 2. प्रत्यर्थी/Respondent | 3. आयकरआयुक्त (अपील)/CIT(A) |
| 4. आयकरआयुक्त /CIT     | 5. विभागीय प्रतिनिधि/DR  | 6. गार्ड फाईल/GF.           |