

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

श्री महावीर सिंह, माननीय उपाध्यक्ष, एवं  
श्री जी. मंजूनाथा, माननीय लेखा सदस्य के समक्ष  
**BEFORE SHRI MAHAVIR SINGH, HON'BLE VICE PRESIDENT AND**  
**SHRI G. MANJUNATHA, HON'BLE ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.887/Chny/2020  
निर्धारण वर्ष /Assessment Year: 2018-19

M/s.Ashley Alteams India Ltd.,  
No.1, Sardar Patel Road,  
Guindy, Chennai-600 032.

v. The Dy. Commissioner –  
of Income Tax,  
Corporate Circle-1(1),  
Chennai.

[PAN: AAGCA 1304 G]  
(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by : Mr.R.Vijayaraghavan, Adv.  
प्रत्यर्थी की ओर से /Respondent by : Mr. AR.V.Sreenivasan,  
Addl.CIT

सुनवाई की तारीख/Date of Hearing : 04.01.2023  
घोषणा की तारीख /Date of Pronouncement : 11.01.2023

**आदेश / ORDER**

**PER G. MANJUNATHA, ACCOUNTANT MEMBER:**

This appeal filed by the assessee is directed against the order of the Commissioner of Income Tax (Appeals)-1, Chennai, dated 03.09.2020 and pertains to assessment year 2018-19.

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

1. The order of the Commissioner of Income Tax (Appeals)-1, Chennai dated 03.09.2020 in I.T.A.No.99/CIT(A)/2019-20 [Intimation Letter for Order u/s 250 of the Income-tax Act, 1961 dated 04.09.2020 vide DIN: ITBA/APL/S/91/2020-21/1027900322(1)] physically received on 16.09.2020, for the above-mentioned assessment year is contrary to law, facts, and in the circumstances of the case.

2. The CIT (Appeals) erred in disposing the appeal without giving an opportunity of being heard to the appellant.

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3. *The CIT (Appeals) is not justified in disposing the appeal without appreciating the submissions made by the appellant and without assigning proper reasons and justification.*
4. *The CIT (Appeals) erred in concluding that there was an incorrect claim by the appellant within the meaning of section 143(1)(a) and the adjustments made u/s.143(1) are correct.*
5. *The CIT (Appeals) ought to have appreciated the fact that the appellant had presented the numbers u/s.43B, in the ITR-6 in a detailed manner by including the total expenditure incurred during the assessment year in disallowance as well as in allowance, hence there is no loss to the revenue.*
6. *The CIT (Appeals) failed to appreciate the appellant's submission that,*
  - a. *in the event of the AO deciding to restricting the claim u/s.43B to the amounts disclosed under Form 3CD, the AO ought to have considered and restricted the disallowances as well to the amounts reported under Form 3CD.*
  - b. *The Act of AO to restrict the claim of allowance made in ROI on one side and ignoring the excess disallowance made in the ROI on the other side had resulted in double whammy to the Appellant and therefore require to be deleted*
7. *The CIT(Appeals) completely ignored the submission that, in spite of the unabsorbed business losses and Depreciation losses available in the hands of the appellant, the Assessing Officer has not set off the same against the above disallowance, instead levied tax and determined a lower refund of Rs.3,15,580/- as against Rs.11,09,770/-, as claimed by the appellant.*
8. *The Appellant craves leave to file additional grounds/arguments at the time of hearing.*

**3.** The brief facts of the case are that the assessee has filed its return of income for the AY 2018-19 on 24.09.2018 declaring 'Nil' total income. The DCIT, CPC, Bangalore, processed the return of income filed by the assessee u/s.143(1) of the Act, on 01.10.2019 and determined total income of Rs.26,46,494/- by disallowing a sum of Rs.26,46,494/- towards consistency in amount disallowed u/s.43B of the Act. The assessee carried the matter in appeal before the First Appellate Authority, and explained the inconsistency by filing necessary reconciliation. The Ld.CIT(A) after considering relevant submissions of the assessee and also taken note of reasons given by the AO, rejected the arguments of the assessee and sustained the additions made towards disallowance of sum of Rs.26,46,494/- in respect of inconsistency amount disallowed u/s.43B of

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the Act, as per Income Tax Return and amount mentioned in Form No.3CD. Aggrieved by the order of the Ld.CIT(A), the assessee is in appeal before us.

**4.** The Ld.AR for the assessee referring to reconciliation amount reported in relevant columns of ITR-6 and amount reported in Form No.3CD submitted that there is a mistake in reporting certain figures in ITR-6 and Form No.3CD. However, there is no difference in amount quantified by the assessee for the purpose of disallowance u/s.43B of the Act. Therefore, submitted that the matter may be set aside to the file of the AO to give one more opportunity of hearing to the assessee to explain its case.

**5.** The Ld.DR, on the other hand, fairly agreed that the issue may be set aside to the file of the for verification.

**6.** We have heard both the parties, perused the materials available on record and gone through orders of the authorities below. The DCIT, CPC, Bangalore, while processing Income Tax Return u/s.143(1) of the Act, has made adjustment of Rs.26,46,494/- towards inconsistency in amount disallowed u/s.43B of the Act, in any preceding previous year, but allowable during the previous year. According to the AO, the assessee has reported a sum of Rs.53,32,012/- in ITR-6, whereas in Form No.3CD, a sum of Rs.26,85,518/- was reported. Therefore, difference between (Rs.53,32,012/- and Rs.26,85,518/-) has been treated as variance and added back to the total income. The assessee has filed a chart explaining

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the reported figures in relevant columns of ITR-6 and correct figures, and argued that in fact, there is no difference in amount reported by the assessee. The relevant reconciliation chart prepared by the assessee is reproduced as under:

*In Form 1TR 6 items 10 & 11 deal with 43B. Unfortunately, the figures claimed has been erroneously incorporated under various clauses.*

*Table 1: Amount relating to and disallowed in preceding previous year but paid during the previous year and hence allowable:*

<b>Clause reference in ITR 6</b>	<b>Particulars</b>	<b>Reported Figure</b>	<b>Correct Figure</b>	<b>Difference</b>
10(b)	PF, ESI, Gratuity	26,00,270	-	26,00,270
10(c)	Bonus or Commission	2,22,519 (1,76,296 + 46,223)	1,76,296	46,223
10(f)	Leave Encashment	25,09,223	25,09,222	1
10(h)	<b>Total</b>	53,32,012	26,85,518	26,46,494

*Table 2: Amount due during the previous year but not paid within due date and hence disallowable:*

<b>Clause reference in ITR 6</b>	<b>Particulars</b>	<b>Reported Figure</b>	<b>Correct Figure</b>	<b>Difference</b>
11(b)	PF, ESI, Gratuity	26,05,815 (26,00,270 + 5545)	5,665 (5545 + 120)	26,00,150
11(c)	Bonus or Commission	49,27,444 (46,223 +48,81,221)	48,81,221	46,223
11(f)	Leave Encashment	32,84,303	32,84,303	-
<b>11(h)- Total</b>	<b>Total</b>	<b>1,08,17,5621</b>	<b>81,71,189</b>	<b>26,46,373</b>

AO has disallowed Rs.26,46,494/- being difference in row 10(h) between the amount reported in 10(h) being Rs.53,32,012/- and what is allowable as reported in 10(c) Rs.1,76,296/- and 10(f) Rs.25,09,222/-adding to 26,85,518.

Due to mistake in entries in ITR form the correct figures have not been taken -

a) The figure reported in 10(b) Rs.26,00,270/- is actually amount incurred and paid during the previous year and allowable. (Refer Form 3CD 26(i)(B)(a) - 2nd item)

b) The figure of Rs.2,22,519/- mentioned in ITR clause 10(c) should actually be Rs.1,76,296/-. (Refer Form 3CD 26(i)(A)(a) 1st item)

If the above two items wrongly entered in the ITR form is corrected as per Form 3CD, there will be no addition.

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**7.** We find that the matter needs further verification from the AO in light of reconciliation filed by the assessee explaining the difference quantified by the AO in respect of inconsistency in amount disallowed u/s.43B of the Act. Therefore, we set aside the issue to the file of the AO and direct the AO to re-consider the issue in light of explanation furnished by the assessee and decide the issue in accordance with law.

**8.** In the result, appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on the 11<sup>th</sup> day of January, 2023, in Chennai.

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

**Sd/-**  
(जी. मंजूनाथा)  
**(G. MANJUNATHA)**  
लेखा सदस्य/**ACCOUNTANT MEMBER**

चेन्नई/Chennai,  
दिनांक/Dated: 11<sup>th</sup> January, 2023.  
**TLN**

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

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