

**IN THE INCOME TAX APPELLATE TRIBUNAL,
'C' BENCH, KOLKATA**

**Before Shri Rajpal Yadav, Vice-President (KZ)
&
Shri Girish Agrawal, Accountant Member**

**I.T.A. No. 2594/KOL/2019
Assessment Year: 2013-2014**

***Kamrup Coke Industries,.....Appellant
1/1A, Biplabi Anukul Chandra Street,
Kolkata-700072
[PAN: AAGFK3064J]
-Vs.-***

***Assistant Commissioner of Income Tax,...Respondent
Circle-37, Kolkata,
3, Government Place (West),
Kolkata-700001***

Appearances by:

*Shri Rakesh Debey, Advocate, appeared on behalf of the
assessee*

*Shri G. Hukugha Sema, CIT, appeared on behalf of the
Revenue*

Date of concluding the hearing : January 11, 2023

Date of pronouncing the order : January 13, 2023

O R D E R

Per Rajpal Yadav, Vice-President (KZ):-

The assessee is in appeal before the Tribunal against the order of Id. Commissioner of Income Tax (Appeals)-11, Kolkata dated 25.09.2019 passed for Assessment Year 2013-14.

2. The solitary grievance of the assessee is that the ld. CIT(Appeals) has erred in dismissing the appeal of the assessee and upholding the order of ld. Assessing Officer passed under section 154 of the Income Tax Act.

3. Brief facts of the case are that an assessment order under section 143(3) was completed on 24.02.2016. The ld. Assessing Officer has initiated proceeding under section 154 of the Income Tax Act. The ld. Assessing Officer was of the view that in paragraph no. 3 & 3.1 of the assessment order an amount of Rs.29,52,785/- was disallowed, however, it remained to be included in the computation of income. Accordingly he took action under section 154 of the Income Tax Act and included that amount of Rs.29,52,785/-.

4. The assessee has filed an appeal against the assessment order passed under section 143(3) on 24.02.2016. He thereafter challenged the order of the ld. Assessing Officer passed under section 154 read with 143(3) of 2nd June, 2016 before the ld. CIT(Appeals). The assessee had contended that the issue is highly debatable and, therefore, ld. Assessing Officer ought to have not made this addition in a proceeding under section 154 of the Income Tax Act. The ld. CIT(Appeals) dismissed the appeal of the assessee by holding that sum of Rs.29,52,785/- represents disallowance of interest expenditure and, therefore, this amount

is not eligible for claiming deduction under section 80IC of the Income Tax Act, 1961.

5. Before us, the assessee has submitted that the assessee has challenged the original assessment order passed under section 143(3) of the Income Tax Act before Id. CIT(Appeals) and thereafter before the ITAT vide ITA No. 2593/KOL/2019. After hearing the assessee, the Tribunal has set aside the impugned order of the Id. CIT(Appeals) and restored all these issues to the Id. Assessing Officer for re-adjudication. Since the determination of income of the assessee remained to be adjudicated by the Id. Assessing Officer afresh after the order of the Tribunal dated 13.09.2022 passed in ITA No. 2593/KOL/2019, we deem it appropriate to relegate this issue also for fresh adjudication at the end of the Id. Assessing Officer. Therefore, whether disallowance of interest expenditure would qualify for grant of deduction under section 80IC is remitted back to the file of Id. Assessing Officer for re-adjudication.

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

Order pronounced in the open Court on 13th January, 2023.

Sd/-

(Girish Agrawal)
Accountant Member

Sd/-

(Rajpal Yadav)
Vice-President (KZ)

Kolkata, the 13th day of January, 2023

- Copies to :(1) **Kamrup Coke Industries,**
1/1A, Biplabi Anukul Chandra Street,
Kolkata-700072
- (2) **Assistant Commissioner of Income Tax,**
Circle-37, Kolkata,
3, Government Place (West),
Kolkata-700001
- (3) Commissioner of Income Tax (Appeals)-11,
Kolkata;
- (4) *Commissioner of Income Tax- ;*
- (5) *The Departmental Representative*
- (6) *Guard File*

TRUE COPY

By order

*Assistant Registrar,
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata*

Laha/Sr. P.S.