

**आयकर अपीलीय अधिकरण, कोलकाता पीठ “एसएमसी”, कोलकाता**  
**IN THE INCOME TAX APPELLATE TRIBUNAL “SMC” BENCH: KOLKATA**  
श्री राजेश कुमार, लेखा सदस्य एवं श्री संजय शर्मा न्यायिक सदस्यके समक्ष  
[Before Shri Rajesh Kumar, Accountant Member & Shri Sonjoy Sarma, Judicial Member]

**I.T.A. No. 631/Kol/2022**  
**Assessment Year: 2020-21**

The Jorehaut Tea Ltd. (PAN: AACCT 2087 M)	Vs.	ADIT, CPC, Bangalore
Appellant / (अपीलार्थी)		Respondent / (प्रत्यर्थी)

Date of Hearing / सुनवाई की तिथि	19.12.2022
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	17.01.2023
For the Appellant/ निर्धारिती की ओर से	Shri Siddharth Agarwal, Advocate
For the Respondent/ राजस्व की ओर से	Shri Vijay Kumar, Addl. CIT Sr. DR

**ORDER / आदेश**

**Per Rajesh Kumar, AM:**

This is the appeal preferred by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals)-NFAC, Delhi (hereinafter referred to as the Ld. CIT(A)”) dated 12.10.2022 for the AY 2020-21.

2. The only issue raised by the assessee is against the order of Ld. CIT(A) confirming the addition of Rs. 30,71,740/- as made by the AO on account of contingent liability which was neither treated as an expense nor debited in the profit and loss account.

3. Facts in brief are that the assessee filed return of income on 08.02.2021 declaring total income of Rs. 10,37,140/- which was processed u/s 143(1) of the Act. The auditors of the assessee showed contingent liability in the tax audit report para 2.1 (g) under the head “particulars in the tax audit report under the head particulars of any liability of a contingent liability” Rs. 30,71,740/- on account of legal matters. The said liability was not charged into profit and loss account, however the intimation received u/s 143(1) of the Act the same was added to the income of the assessee.

4. The Ld. CIT(A) dismissed the appeal of the assessee by observing and holding as under:

*“5. The appellant merely saying something without substantiating the fact, it does not make appellant eligible for relief. The addition is apparently based on ‘an incorrect claim if such incorrect claim is apparent from any information in the return’. How to ascertain that amount is not debited in profit and loss accounts, unless the accounts are verified properly, once auditor is certifying the amount that it is contingent liability, CPC has no means to contradict the Audit Report, therefore there is no mistake in order of CPC, Bangalore”*

5. After hearing the rival contentions and perusing the material on record, we find that the auditors of the assessee has appended a note no. 2 to the accounts for the year ended 31.03.2020 which states that contingent liability was not provided for sales tax matter Rs. 86,53,882/- (previous year Rs. 8,53,882/-) and for legal matters Rs. 30,71,740/- (previous year Rs. 30,71,740/-). We note that the auditors of the assessee company reported this contingent liability pursuant to the requirement in the tax audit report in para 21(g) in respect of legal matters. We have also examined the profit and loss account of the assessee and find that the said account was nowhere charged in the profit and loss account as has been stated in note no. 2 that contingent liability is not provided for legal matters. This is only for the reporting purposes and has nothing to do actual accounting of the assessee which may come on the assessee in the future years. In our view, a contingent liability which has not provided in the books of account cannot be added to the income of the assessee as it has no bearing on the income of the current year. Accordingly, we reverse the order of Ld. CIT(A) and direct the AO to delete the addition.

6. In the result, the appeal of the assessee is allowed.

Order is pronounced in the open court on 17<sup>th</sup> January, 2023

Sd/-  
(Sonjoy Sarma /संजय शर्मा)  
Judicial Member/न्यायिक सदस्य

Sd/-  
(Rajesh Kumar/राजेश कुमार)  
Accountant Member/लेखा सदस्य

Dated: 17<sup>th</sup> January, 2023

SB, Sr. PS

Copy of the order forwarded to:

1. Appellant- The Jorehaut Tea Ltd., C/o, Subash Agarwal & Associates, Advocates, Siddha Gibson, 1, Gibson Lane, Suite 213, 2<sup>nd</sup> Floor, Kolkata-700069.
2. Respondent – ADIT, (CPC), Bangalore
3. Ld. CIT(A)-NFAC, Delhi
4. Pr. CIT- , Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar  
ITAT, Kolkata Benches, Kolkata