

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

श्री राजपाल यादव, उपाध्यक्ष (कोलकाता क्षेत्र)
एवं
डॉ. मनीष बोर्ड, लेखा सदस्य
के समक्ष

Before

**SRI RAJPAL YADAV, VICE PRESIDENT
&
DR. MANISH BORAD, ACCOUNTANT MEMBER**

**I.T.A. No.: 192/KOL/2019
Assessment Year: 2013-14**

***M/s. Usha Martin Telematics Limited.....Appellant
[PAN: AAACU 3054 D]***

Vs.

DCIT, Circle-6(2), Kolkata.....Respondent

Appearances by:

Sh. Pratush Jhunjunwala, Adv., appeared on behalf of the Assessee.

Smt. Ranu Biswas, Addl. CIT (D/R), appeared on behalf of the Revenue.

Date of concluding the hearing : February 1st, 2023

Date of pronouncing the order : April 17th, 2023

ORDER

Per Manish Borad, Accountant Member:

This appeal at the instance of the assessee is directed against the order of Id. CIT(A)-2, Kolkata dated 15.10.2018.

2. From perusal of the grounds, we notice that the sole grievance of the assessee is that both the lower authorities erred in not granting the credit of Minimum Alternate Tax (in short 'MAT') of Rs. 1,25,75,975/- u/s 115JAA of the Act against the taxes payable by the assessee under the normal provisions of the Act.

3. We have heard rival contentions and perused the records placed before us. We notice that the assessee is a limited company engaged in the business of investment in securities and providing finance. Income of Rs. 3,87,60,900/- declared in the return filed on 27.09.2013 for AY 2013-14. Case selected for scrutiny through CASS followed by serving of notices u/s 143(2) & 142(1) of the Act and after carrying out the assessment proceedings which were completed on 08.03.2016 u/s 143(3) of the Act income of the assessee assessed at Rs. 3,87,60,900/- and book profit assessed at loss of Rs. 12,47,02,112/-. The income tax computation form attached to the assessment order shows that no credit u/s 115JAA of the Act was given by ld. AO. Before us, reference was made to the details of taxes paid by the assessee for AY 2008-09, AY 2010-11 & AY 2011-12 as per the normal provisions and tax paid as per MAT provisions and the credit available with the assessee and the same is reproduced below in the form of a chart:

<i>Assessment Year ('AY')</i>	<i>Tax as per normal provisions (Rs)</i>	<i>Tax paid as per MAT provisions (Rs)</i>	<i>Available credit (Rs)</i>
<i>2008-09</i>	<i>31,200</i>	<i>1,93,03,789</i>	<i>19,272,589</i>
<i>2010-11</i>	<i>71,340</i>	<i>5,29,96,538</i>	<i>52,925,198</i>
<i>2011-12</i>	<i>NIL</i>	<i>40,71,773</i>	<i>40,71,773</i>
<i>Total</i>	<i>1,02,540</i>	<i>7,63,72,100</i>	<i>7,62,69,560</i>

4. The above chart indicates the claim of the assessee regarding the available tax credit for set off against the taxes for the subject assessment year in terms of Section 115JAA of the Act. This claim of the assessee was not accepted by ld. AO as discernible from the income tax computation form. When the assessee challenged this issue before ld. CIT(A) he failed to give any relief observing as follows:

“I have considered the grounds of appeal statement of facts and submission of the authorized representative of the appellate company as well as the assessment order framed in the light of the materials available on record before the assessing officer during the assessment proceedings. I have gone through the assessment order and find that there is not such issue arises from the order. In view of above, since the ground of appeal does not arise for the assessment order, this ground of appeal is dismissed.”

5. The above finding of ld. CIT(A) is general in nature and no efforts made to resolve the issue. Before us, prayer is made to restore the issue to the file of ld. AO for necessary verification of the claim made by the assessee. We, therefore, in the interest of justice being fair to both the parties and on observing that ld. CIT(A) has not adjudicated the issue properly, find it justified to restore this issue of claim of tax credit u/s 115JAA of the Act to the file of ld. AO who shall examine the said claim on the strength of the documents to be filed by the assessee pertaining to AY 2008-09, AY 2010-11 & AY 2011-12 and shall decide in accordance with law and allow the set off of the available tax credit against the tax liability for the year under appeal. Needless to mention that proper opportunity of being heard should be provided to the assessee. The assessee is also directed to remain vigilant and file necessary documents, if considered necessary, in support of its grounds of

appeal and should not take adjournment, unless otherwise required for reasonable cause. In case after providing sufficient opportunity to the assessee, there is no compliance by the assessee, then Id. AO can adjudicate the issue in accordance with law.

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

Kolkata, the 17th April, 2023

Sd/-
[Rajpal Yadav]
Vice President

Sd/-
[Manish Borad]
Accountant Member

Dated: 17.04.2023

Bidhan (P.S.)

Copy of the order forwarded to:

- 1. M/s. Usha Martin Telematics Limited, E-47, Bankra Super Market, Bankra, Howrah-711 403.**
- 2. DCIT, Circle-6(2), Kolkata.**
3. CIT(A)-2, Kolkata.
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata.

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By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata