

IN THE INCOME TAX APPELLATE TRIBUNAL KOLKATA BENCH 'SMC', KOLKATA

[Before Dr. Manish Borad, Accountant Member &
Shri Sonjoy Sarma, Judicial Member]

I.T.A. No. 162/Kol/2023
Assessment Year : 2020-21

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|------------------------------------------------|---------|---------------------------------------------|
| B and M Chemicals Limited PAN: AACCB 2054 N | Vs . | Centralized Processing Centre, Bengaluru |
| Appellant | | Respondent |

| | |
|-----------------------|-----------------------------|
| Date of Hearing | 13.04.2023 |
| Date of Pronouncement | 04.05.2023 |
| For the Assessee | Shri Rakesh Jain, AR |
| For the Revenue | Shri Vijay Kumar, Addl. CIT |

ORDER

Per Sonjoy Sarma, JM:

This appeal in ITA No. 162/Kol/2023 for A.Y. 2020-21 is preferred by the assessee against the order of the Commissioner of Income Tax, National Faceless Appeal Centre, Delhi (NFAC) [Ld. CIT in short], dated 03.02.2023. The assessee has raised the following grounds of appeal:

"1. That in the facts and circumstances of the case, the Ld. Commissioner of Income Tax (Appeals) erred in confirming the disallowances made by the CPC, Bengaluru while processing the Income Tax Return under section 143(1) of the Income Tax Act, 1961 to the tune of Rs. 3,57,345/- relating to employees' contribution under section 36(1)(va) read with section 2(24)(x) of the Income Tax Act, 1961 deposited within due to filing of Income Tax Return under section 139(1) of the Income Tax Act, 1961, which is bad in law and ion facts.

2. That in the facts and circumstances of the case, the Ld. Commissioner of Income Tax (Appeals) erred in confirming the action of CPC, Bengaluru in not setting off the entire addition of Rs. 9,24,625/- with brought forward business loss available to the appellant to the extent of Rs. 1,94,25,447/- which was claimed by the appellant in its return of income filed online, which is bad in law and on facts.

3. That the appellant craves leave to add/furnish further grounds of appeal either before or at the time of hearing of appeal.”

2. Brief facts of the case are that the assessee filed its return of income u/s 143(1) of the Act for the A.Y. 2020-21 on 15.02.2021 and it was processed u/s 143(1) of the Act. While doing so, CPC, Bengaluru made an addition of Rs. 3,57,345/- on account of disallowance u/s 36(1)(va) of the Act for delay in payment of employees contribution to Provident Fund and ESI.

3. Aggrieved by the above order, assessee preferred an appeal before the ld. CIT(A), however the appeal of the assessee was dismissed.

4. Dissatisfied with the above order, assessee again filed the instant appeal before the Tribunal by raising multiple grounds of appeal.

5. At the time of hearing, ld. counsel for the assessee has raised three grounds of appeal, ground no. 1 raised in the appeal which is covered against the assessee in view of the Hon'ble Supreme Court decision in the case of Checkmate Services Pvt. Ltd. vs CIT reported in 143 taxmann.com 178 (SC) dated 12.10.2022. Therefore, ground no. 1 in the appeal goes against the assessee, accordingly, it is dismissed. The other ground, ground no. 3 is general in nature and need not required to be adjudicated. The only effective issue to be decided in this appeal is as to while deciding the appeal of the assessee, ld. CIT(A)

confirming the action of CPC, Bengaluru and while doing so, he did not setting off the entire addition of Rs. 9,24,625/- with brought forward business loss available to the assessee to the extent of Rs. 1,94,25,447/- which was claimed by the assessee in its return of income for the assessment year in question.

6. We have heard the parties on this issue and perused the material available on record and also examined the paper book submitted by the assessee. The ld. counsel for the assessee brought to our notice that from the computation of income, the assessee has brought forwarded loss available to the extent of Rs. 1,94,25,447/- which was claimed by the assessee in its return of income but ld. CIT(A) ignoring the same did not setting off entire addition of Rs. 9,24,625/- hence we direct the AO to setting off the entire addition of Rs. 9,24,625/- which was claimed by the assessee while filing its return of income for the relevant assessment year. Accordingly, ground no. 2 raised by the assessee is allowed.

7. In the result, the appeal of the assessee is partly allowed.

Order pronounced in the open court on 04.05.2023.

Sd/-

Sd/-

(Manish Borad)
Accountant Member

(Sonjoy Sarma)
Judicial Member

Dated:04.05.2023
Biswajit, Sr. PS

Copy of the order forwarded to:

1. Appellant- B and M Chemicals Limited, 3, Govind Mahal, Wood Street, Kolkata-700016.
2. Respondent – Centralized Processing Centre, Bengaluru.
3. Ld. CIT
4. Ld. CIT(A)
5. Ld. DR

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata