

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

**Before Shri Rajpal Yadav, Vice-President
&
Shri Rajesh Kumar, Accountant Member**

**I.T.A. No. 553/KOL/2021
Assessment Year: 2015-2016**

***Assistant Commissioner of Income Tax,...Appellant
Central Circle-3(3), Kolkata,
Room No. 416, 4th Floor,
Aayakar Bhawan Poorva,
110, Shanti Pally,
Kolkata-700107***

-Vs.-

***Surya Alloy Industries Limited.....,..Respondent
1/1, Camac Street, 3rd Floor,
Kolkata-700017
[PAN: AADCS5890E]***

Appearances by:

Shri Guru Bhashyam, CIT (DR), appeared on behalf of the Revenue

Shri N.S. Saini, A.R., appeared on behalf of the assessee

Date of concluding the hearing : July 06, 2023

Date of pronouncing the order : July 07, 2023

O R D E R

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

The Revenue is in appeal before the Tribunal against the order of Id. Commissioner of Income Tax (Appeals)-22, Kolkata dated 29th June, 2012¹ passed for A.Y. 2015-16.

2. The Registry has pointed out that the appeal is time-barred but we find that the period during which this appeal was filed was a COVID period and its stand already excluded from computation of limitation by the judgment of the Hon'ble Supreme Court. Hence, this appeal is not time-barred.

3. The ld. Counsel for the assessee at the very outset submitted that the dispute with the Department regarding determination of taxable income has been resolved by the assessee before the Settlement Commission. The Revenue has given effect to the order passed under section 245D(4) of the Income Tax Act. The order given effect reads as under:-

*“OFFICE OF THE DEPUTY COMMISSIONER OF INCOME-TAX,
CENTRAL CIRCLE-3(3), KOLKATA
110, Shanti Pally, E M Bypass. Kolkata -700 107
PHONE No. 033 24410187,
e- mail: kolkata.dcit.cen3.3@inconietax.gov.in.*

<i>NAME OF ASSESSEE</i>	<i>SURYA ALLOYS INDUSTRIES LIMITED</i>
<i>ADDRESS</i>	<i>1/1, CAMAC STREET, 3RD FLOOR, PARK STREET, KOL- 700016</i>
<i>Pan/ GIR No.</i>	<i>AADCS5890E</i>
<i>DISTRICT/ WARD/ CIRCLE</i>	<i>DCIT, CENTRAL CIRCLE 3(3), KOLKATA</i>
<i>STATUS</i>	<i>COMPANY</i>
<i>ASSESSMENT YEAR</i>	<i>2015-16</i>
<i>DATE OF ORDER</i>	<i>11.05.2023</i>

Effect of the Order u/s 245D (4) of the Income Tax Act, 1961

The assessee company filed an application before the Hon'ble Interim Board for Settlement-V, Mumbai u/s.245C(1) of the IT Act, 1961 on 22.09.2021. The Hon'ble Interim Board for Settlement-V, Mumbai passed order u/s.245D(4) of The Income Tax Act, 1961 on 24.03.2023/27.03.2023. Effect of the said order is given here as under:

COMPUTATION

Particulars	Amount in Rs.
Regular assessed income as per order u/s 251/143(3) dated 03.08.2021	(-)52,96,83,331
Add : Disclosure considered in 153A return	38,41,58,000
Income as per return filed 153A on 17.11.2020 of (-)Rs.34683331/-	
Income as per revised return filed 153A on 17.09.2021 manually	(-)14,55,25,331
Add : Additional Income u/s 245C	3,08,25,000
Revised total income	(-) 11,47,00,331
Add: Further addition made in order u/s 245D(4)	33,23,606
Final total income settled	(-) 11,13,76,725
Total Tax	0
Less : Taxes paid	
fa) TDS (As per 26AS)	81,97,562
(b) TCS (As per 26AS)	81,497
Total TDS & TCS	82,79,059
Advance Tax Paid	0
Tax Payable/Refundable	82,79,059
Add : Interest payable	
Total interest payable	0
Total Refundable	(-) 82,79,059
Total taxes paid	0
Add : Refund already issued/adjusted	0
Final Tax Refundable	(-) 82,79,059
Interest u/s 244A	(-) 38,26,239
Final Tax Refundable	(-) 1,21,05,298

4. In view of the determination of income at the end of the Settlement Commission, this appeal of the Revenue is not maintainable, accordingly dismissed.

5. In the result, the appeal of the Revenue is dismissed.

Order pronounced in the open Court on July 07, 2023.

**Sd/-
(Rajesh Kumar)
Accountant Member**

**Sd/-
(Rajpal Yadav)
Vice-President(KZ)**

Kolkata, the 7th day of July, 2023

*Copies to : (1) Assistant Commissioner of Income Tax,
Central Circle-3(3), Kolkata,
Room No. 416, 4th Floor,
Aayakar Bhawan Poorva,
110, Shanti Pally, Kolkata-700107*

*(2) Surya Alloy Industries Limited,
1/1, Camac Street, 3rd Floor,
Kolkata-700017*

*(3) Commissioner of Income Tax (Appeals),
Kolkata-22,*

*(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.