

आयकर अपीलीय अधिकरण “डी” न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“D” BENCH, CHENNAI

माननीय श्री महावीर सिंह, उपध्यक्ष एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखक सदस्य के समक्ष।
BEFORE HON’BLE SHRI MAHAVIR SINGH, VP AND
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं. ITA No.396/Chny/2023
(निर्धारण वर्ष / Assessment Year: 2014-15)

DCIT Corporate Circle-1, Coimbatore – 641 018	बनाम/ Vs.	M/s. L.G. Balakrishnan & Bros Ltd. 6/16/13, Krishnarayapuram Road, Ganapathy, Coimbatore-641 006.
स्थायी लेखासं./जी आइ आर सं./PAN/GIR No. AAACL-3740-P		
(पीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

&

आयकर अपील सं./ IT(TP)A No.33/Chny/2023
(निर्धारण वर्ष / Assessment Year: 2014-15)

M/s. L.G. Balakrishnan & Bros Ltd. 6/16/13, Krishnarayapuram Road, Ganapathy, Coimbatore-641 006.	बनाम/ Vs.	DCIT Corporate Circle-1, Coimbatore – 641 018
स्थायी लेखासं./जी आइ आर सं./PAN/GIR No. AAACL-3740-P		
(पीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

Revenue by	:	Shri G.Suresh (Addl CIT)- Ld.DR
Assessee by	:	Shri B. Ramakrishnan (FCA)-Ld .AR

सुनवाई की तारीख/Date of Hearing	:	01-08-2023
घोषणा की तारीख /Date of Pronouncement	:	30-08-2023

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid cross-appeals for Assessment Year (AY) 2014-15 arises out of the order of learned Commissioner of Income Tax (Appeals)-16, Chennai [CIT(A)] dated 30-01-2023 in the matter of final assessment

order passed by Ld. Assessing Officer [AO] u/s. 143(3) r.w.s 92CA r.w.s 144C of the Act on 27-02-2018. The grievance of the revenue is that Ld. CIT(A) erred in admitting additional evidences qua various economic adjustment for Pantnagar Plant in violation of Rule 46A. The grievance of the assessee is re-computation of eligible profit u/s 80IC. The assessee is also aggrieved by confirmation of disallowance u/s 14A while computing Book Profit u/s 115JB.

2. The Ld. Sr. DR submitted that additional evidences were submitted by Ld. CIT(A) in violation of Rule 46A. The Ld. AR advanced arguments and referred to the order of Tribunal in assessee's own case for AY 2013-14 vide ITA No.1924/Chny/2017 order dated 17-12-2018. Having heard rival submissions and upon perusal of case records, our adjudication would be as under.

Proceedings before Ld. AO / TPO

3.1 The assessee being resident corporate assessee is stated to be engaged in manufacturing of automobile and auto parts. During the course of assessment proceedings, a reference was made by Ld. AO to Ld. Transfer Pricing Officer-3(1), Chennai (TPO) for determination of Arm's Length price of specified domestic transactions. The Ld. TPO passed an order u/s 92CA(3) on 31-10-2017 wherein profit of eligible business u/s 80IC were re-computed.

3.2 It transpired that the transmission segment of the assessee reflected margin of 8.99%. However, the margin of Pantnagar Plant, which was eligible for deduction u/s 80IC, reflected margin of 23.47% and accordingly, the assessee was show caused by Ld. TPO that this

plant was showing extraordinary margin which was not at par with other Plant's margins.

3.3 The assessee attributed higher margin to reduction in cost in Pantnagar Plant on account of Power & fuel, repairs and maintenance cost and employee cost. Further, this plant was stated to be nearer to the source of raw material. This plant was stated to be enjoying benefit of excise duty.

3.4 The Ld. TPO accepted excise duty exemption plea but rejected other economic factors as pleaded by the assessee. Finally, the revised margin were computed as 25.45% as against mean comparable margins on cost @10.42% as reflected by three entities. Applying the same, Ld. TPO held that profit of this unit should be Rs.28.77 Crores and deduction u/s 80IC was to be recomputed.

3.5 Accordingly, Ld. AO recomputed eligible deduction u/s 80IC @30% which came to Rs.8.70 Crores as against Rs.21.08 Crores as claimed by the assessee in the return of income.

3.6 The Ld. AO also computed disallowance u/s 14A r.w.r. 8D(2)(iii) @0.5% of average investments which came to be Rs.11.61 Lacs. The same was added under normal provisions as well as while computing Book Profits u/s 115JB. However, in the computations, this disallowance was considered as Rs.17.41 Lacs

Proceedings before Ld. CIT(A)

4.1 During appellate proceedings, the assessee sought economic adjustments and also assailed comparability matrix. The Ld. CIT(A), in para 12.4 of the order, granted economic adjustment and recomputed assessee's margins of 17.27% on cost as against 10.42% of comparable

entities. The said adjudication enhanced the deduction u/s 80IC by Rs.4.08 Crores. Aggrieved, the assessee as well as revenue is in further appeal before us.

4.2 The Ld. CIT(A), while upholding the disallowance u/s 14A, directed Ld. AO to compute correct disallowance. Aggrieved, the assessee is in further appeal before us.

Our findings and Adjudication

5. We find that the assessee could not substantiate its claim of economic adjustment before Ld. TPO. However, Ld. CIT(A), by considering additional evidences granted further relief to the assessee without confronting the same to Ld. TPO. The same was in violation of Rule 46A. During the course of hearing, it also transpires that the issue of economic adjustment has already been remitted by Tribunal in assessee's own case for AY 2013-14 vide ITA No.1924/Chny/2017 order dated 17-12-2018. The bench, in para-5 of the order, remitted the matter back to the file of Ld. TPO for denovo consideration. Similar plea has been made before us. Therefore, keeping all the issues open and to enable revenue to take consistent stand, we remit this issue back to the file of Ld. AO / TPO for de novo consideration. The grounds raised in cross-appeal stand allowed for statistical purposes.

6. So far as adjustment of disallowance u/s 14A is concerned, we find that, considering the decision of Special Bench of Delhi Tribunal in **Vireet Investment P. Ltd. (82 Taxmann.com 415)**, no such disallowance could be made while computing Book Profit u/s 115JB. Therefore, Ld. AO is directed not to add the disallowance u/s 14A u/s 115JB. The corresponding ground in assessee's appeal stand allowed.

7. The appeal of the revenue stand allowed for statistical purposes. The appeal of the assessee stands partly allowed in terms of our above order.

Order pronounced on 30th August, 2023.

Sd/-

(MAHAVIR SINGH)

उपाध्यक्ष / **VICE PRESIDENT**

Sd/-

(MANOJ KUMAR AGGARWAL)

लेखा सदस्य / **ACCOUNTANT MEMBER**

चेन्नई Chennai; दिनांक Dated : 30-08-2023
DS

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/Appellant
2. प्रत्यर्था/Respondent
3. आयकरआयुक्त/CIT
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF