

I.T.A. No. 1097/Del/2022

IN THE INCOME TAX APPELLATE TRIBUNAL  
[ DELHI BENCH "D" : DELHI ]

BEFORE SHRI G. S. PANNU, PRESIDENT

A N D

SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER

आ.अ.सं./I.T.A No. 1097/Del/2022

निर्धारणवर्ष /Assessment Years: 2017-18

Vossloh Cogifer SA, Alternate India Address: Unit No. 5, 12th Floor, Eros Corporate Tower, Nehru Place, New Delhi - 110 019.	<u>बनाम</u> Vs.	CIT-3, International Taxation, Delhi.
PAN No. AACCV8605R		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारितकीओरसे /Assessee by :	Shri Salil Kapoor, Advocate;
राजस्वकीओरसे / Department by :	Ms. Prajna Paramita; [CIT] - D. R.

सुनवाईकीतारीख/ Date of hearing :	4/07/2023
उद्घोषणाकीतारीख/Pronouncement on :	25/09/2023

आदेश / O R D E R

PER C. N. PRASAD, J. M. :

1. This appeal is filed by the assessee against the order of the Id. Commissioner of Income Tax-3 (hereinafter referred to CIT)

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New Delhi, dated 23.03.2022 passed under section 263 of the Income Tax Act, 1961 (the Act) for assessment year 2017-18.

2. In this case the ld. CIT passed order under section 263 of the Act for the reason that the assessment order was passed without making enquiries or verification on the deemed export benefit as per foreign trade policy as the assessee has considered the eligibilities/availabilities of deemed benefits which is available to its domestic suppliers/subsidiaries Vossloh Beekay Casting Limited (VBCL) and Vossloh Cogifer Turnouts India Private Limited (VCTI) as an ascertained liability of the assessee for the assessment year 2017-18.

3. On hearing both the sides in so far as invocation of the provisions under section 263 of the Act are concerned in holding that the assessment order passed under section 143(3) on 19.12.2019 for the assessment year 2017-18 was erroneous and prejudicial to the interest of Revenue we agree with the ld. CIT that there was no adequate enquiry or examination as to whether the claim made by the assessee in respect of deemed export benefits as an ascertained liability for the assessment year under consideration was not examined. However, we find that the ld. CIT without giving any opportunity to the assessee to explain as to whether the liability is an ascertained liability for this year or not directed the Assessing Officer to disallow the claim of deemed export compensation which, in our view, is not correct. Therefore, we set aside the order of the ld. CIT in so far as the direction given to disallow the deemed export compensation.

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Therefore, we modify the above direction of the Id. CIT and restore the issue to the Assessing Officer with a direction to examine the issue as to whether the deemed export compensation claimed by the assessee is an ascertained liability for the year under consideration i.e. assessment years 2017-18 and to decide the issue in accordance with law after providing adequate opportunity of being heard to the assessee. The assessee may furnish all the necessary evidences to prove its claim before the Assessing Officer. With these directions we dispose of the appeal of the assessee.

4. In the result, appeal of the assessee is partly allowed for statistical purposes.

Order pronounced in the open court on : 25/09/2023.

Sd/-  
( **G. S. PANNU** )  
**PRESIDENT**

Sd/-  
( **C. N. PRASAD** )  
**JUDICIAL MEMBER**

Dated : 25/09/2023.

\*MEHTA\*

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. आवेदक / Assessee
2. राजस्व / Revenue
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, DELHI /  
DR, ITAT, DELHI

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6. गार्ड फाइल / Guard file.

By order

ASSISTANT REGISTRAR  
ITAT, New Delhi.

Date of dictation	18.09.2023
Date on which the typed draft is placed before the dictating Member	19.09.2023
Date on which the typed draft is placed before the Other Member	25.09.2023
Date on which the approved draft comes to the Sr. PS/PS	25.09.2023
Date on which the fair order is placed before the Dictating Member for pronouncement	25.09.2023
Date on which the fair order comes back to the Sr. PS/PS	25.09.2023
Date on which the final order is uploaded on the website of ITAT	25.09.2023
Date on which the file goes to the Bench Clerk	25.09.2023
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	