

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'H' BENCH
MUMBAI**

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER
&
MS.PADMAVATHY S, ACCOUNTANT MEMBER**

**ITA No.509/Mum/2023
(Assessment Year :2019-20)**

M/s. Tata Steel Ltd. Bombay House 24, Homi Mody Street Fort, Mumbai-400 001	Vs.	The Deputy Commissioner of Income Tax-2(3)(1) Room No.552, Aayakar Bhavan, Maharshi Karve Road Mumbai-400 020
PAN/GIR No.AAACT2803M		
(Appellant)	..	(Respondent)

CORRIGENDUM

In relation to the order passed in aforesaid ITA No. 509/Mum/2023 vide order 07/11/2023, a letter has been submitted for a request of corrigendum which reads hereunder:-

“The above referred appeal was heard by your Honours on 19 October 2023 and the order was pronounced on 07 November 2023. We have attached a copy of the order as Annexure 1 for your ready reference. In this regard, we would like to state as under

1. Background:

TSL is a public limited company incorporated in India with its registered office in Mumbai The Company has presence across the entire value chain of steel manufacturing from mining and processing iron ore and coal to producing and distributing finished products

2 Typographical or inadvertent error in the order passed:

The Appellant had inter alia filed Ground No 4 requesting for allowance of expenditure incurred on compensatory afforestation

amounting to Rs. 126,19,08,529/ The Hon'ble ITAT while adjudicating this ground, accepted the contention of the Assessee and has held that it is a covered matter and decided by the ITAT in favour of the Assessee in AYs 2016-17 and 2017-18 However, in the captioned order, there are following inadvertent errors have taken place in relation to this ground

21 Amount of claim inadvertently mentioned as Rs. 181,26,02,521/ instead of Rs. 126,19,08,529/-

In this regard the Appellant submits that amount of claim of deduction for compensatory afforestation has been mentioned inadvertently as Rs. 181,26,02,521/- at paragraph 26, page 26 instead of actual claim of Rs 126,19,08, 529/- Therefore, we pray that paragraph 26 may be suitably modified by inserting the correct amount of Rs. 126, 19,08,529/- The relevant extracts of the grounds of appeal and final assessment order wherein the correct amount of disallowance is mentioned is enclosed as Annexure 2 and 3 respectively for your reference

2.2. Wrong paragraphs of the ITAT order for AY 2016-17 and AY 2017-18 reproduced in the captioned order.

The Appellant submits that while adjudicating on the allowability of compensatory afforestation (Ground No. 4), the Hon'ble Bench has inadvertently reproduced the relevant extracts of the decision of the Hon'ble ITAT for AY 2016-17 and AY 2017-18 pertaining to allowability of deduction of interest on Perpetual Non-Convertible Debentures (PNCD) (Paragraph 28, Page 27] instead of reproducing the extract pertaining to allowability of compensatory afforestation. The relevant extracts of the Hon'ble ITAT order for AY 2016-17 and AY 2017-18 in relation to allowability of compensatory afforestation is as under

"6.6 We find that the Tribunal in assessee's own case for assessment year 2006-07 in ITA No. 1447/MUM/2020 (supra) has held that contribution towards Compensatory Afforestation Fund is an allowable expenditure. The relevant extract of the findings of the Co-ordinate Bench on this issue are reproduced herein below:

"4. We have heard the rival submissions and perused the material before us. We find that the CIT had invoked the provisions of section 263 of the Act with regard to three issues. that after due verification the AO had dropped two issues out of the three and had passed order about the first issue ie contribution to CAF We further find that identical issue was decided in favour of the assessee in various Benches of the Tribunal. In case of the sister concerns, the Tribunal had decided the issue in their favour. We would like to refer to the case of Ramgad Minerals and Mining Pvt. Ld. (supra) and it reads as under:

"3. The Commissioner of income tax vide order at Annexure B confirmed the order of the Assessing Authority. The appellate Tribunal vide annexure-a has made the following observation.

"We find force in the submission of the learned counsel that pavements to the Government are to be paid once the mining lease is obtained and such payments are governed by various acts along with the Apex Court making a ruling for State Governments to participate in the granting of mining lease by recovering compensation when their forests are uprooted Therefore, for this purpose, the funds are used for a natural regeneration which the assessee participates indirectly Therefore, at no point of time could it be said that the assessee had incurred capital expenditure giving the assessee a benefit of enduring nature for the purpose of earning segmented income to render the same to income tax. In other words, the authorities below have not pointed out the income generated against the purported deferred revenue expenditure so proposed by them in their impugned orders. The amount was incurred as a revenue expenditure to be allowed in the year it has been incurred."

4. It is not in dispute that the said payment was made as contribution to compensator afforestation as per the directions of the Supreme Court. It is not permissible for the assessee to make phase-wise payment. In that view, the order of the Appellate Tribunal is sound and proper Appeal is dismissed."

Considering the above we hold that the CIT-2 was not justified in invoking the provisions of section 263 of the Act with regard to any

of the three issues Effective Ground of appeal is decided in favour of the assessee."

In support of his claim the learned AR of the assessee has inter alia placed reliance on the decisions of Dr. Prafulla R. Hedge in ITA No. 15 of 2012 (Bombay), Ramgad Minerals and Mining Pvt. Ltd. in ITA No. 5021/2009 (Kar) and Essel Mining And Industries Ltd. in ITA NO. 352/KOL/2011 No contrary material was placed before us by the Department. Thus, following the decision of Co-ordinate Bench in assessee's own case in AY 2006- 07, we hold that contribution towards Compensatory Afforestation Fund by the assessee during the impugned AY is allowable. We hold and direct, accordingly. Thus ground no. 5 of the appeal is allowed.

A copy of the ITAT order for AY 2016-17 and AY 2017-18 is enclosed as Annexure 4 for your easy reference

In view of the above, we humbly pray that Paragraph 28 of the captioned order be suitably modified by inserting the correct extract as highlighted pertaining to the allowability of compensatory afforestation expense (Ground No. 4) hereinabove. The Appellant would also like to draw your attention to the fact that the contents of current Paragraph 28 may be shifted before Paragraph 25 since it pertains to the Ground No. 3 with respect to the issue of disallowance of interest paid on perpetual non-convertible debentures

3. Prayer

We humbly pray that this Hon'ble Bench be pleased to issue/pass a corrigendum order suitably modifying the relevant typographical/ inadvertent errors in paragraphs 26 and 28 as highlighted above as also shift paragraph 28 above paragraph 25 of the present order since it pertains to Ground No. 3 with respect to issue of disallowance of interest paid on perpetual non-convertible debentures in the captioned order dated 07 November 2023.

We hope your Honour will accept our request and oblige. Further, in case your Honours require any clarification, request you to kindly let us know so that we can address the same.

2. We have gone through the said letter and find substance in the same and admit that there are typographical errors for which this corrigendum is hereby issued.

3. In the captioned order dated 07/11/2023 in para 26, page 26 Tribunal had erroneously mentioned the actual claim of Rs.181,26,02,521/- instead of 126,19,08,529/-. This error has been rightly pointed out by the assessee and it is hereby modified that the actual claim will be read as **Rs.126,19,08,529/-**

4. It was stated that in para 28, this Tribunal had inadvertently reproduce the relevant extracts of the decision of the ITAT for A.Y.2016-17 and A.Y.2017-18 in relation to allowability of compensatory afforestation. We here agree with the contention of the assessee and modify paragraph 28 as under:

28. We find that this issue has been decided in A.Y.2016-17 and 2017-18. The relevant portion of the Tribunal order is reproduced as under:-

"6.6 We find that the Tribunal in assessee's own case for assessment year 2006-07 in ITA No. 1447/MUM/2020 (supra) has held that contribution towards Compensatory Afforestation Fund is an allowable expenditure. The relevant extract of the findings of the Co-ordinate Bench on this issue are reproduced herein below:

"4. We have heard the rival submissions and perused the material before us. We find that the CIT had invoked the

provisions of section 263 of the Act with regard to three issues. that after due verification the AO had dropped two issues out of the three and had passed order about the first issue ie contribution to CAF We further find that identical issue was decided in favour of the assessee in various Benches of the Tribunal. In case of the sister concerns, the Tribunal had decided the issue in their favour. We would like to refer to the case of Ramgad Minerals and Mining Pvt. Ld. (supra) and it reads as under:

"3. The Commissioner of income tax vide order at Annexure B confirmed the order of the Assessing Authority. The appellate Tribunal vide annexure-a has made the following observation.

"We find force in the submission of the learned counsel that pavements to the Government are to be paid once the mining lease is obtained and such payments are governed by various acts along with the Apex Court making a ruling for State Governments to participate in the granting of mining lease by recovering compensation when their forests are uprooted Therefore, for this purpose, the funds are used for a natural regeneration which the assessee participates indirectly Therefore, at no point of time could it be said that the assessee had incurred capital expenditure giving the assessee a benefit of enduring nature for the purpose of earning segmented income to render the same to income tax. In other words, the authorities below have not pointed out the income generated against the purported deferred revenue expenditure so proposed by them in their impugned orders. The amount was incurred as a revenue expenditure to be allowed in the year it has been incurred."

4. It is not in dispute that the said payment was made as contribution to compensator afforestation as per the directions of the Supreme Court. It is not permissible for the assessee to make phase-wise payment. In that view,

the order of the Appellate Tribunal is sound and proper Appeal is dismissed."

Considering the above we hold that the CIT-2 was not justified in invoking the provisions of section 263 of the Act with regard to any of the three issues Effective Ground of appeal is decided in favour of the assessee."

In support of his claim the learned AR of the assessee has inter alia placed reliance on the decisions of Dr. Prafulla R. Hedge in ITA No. 15 of 2012 (Bombay), Ramgad Minerals and Mining Pvt. Ltd. in ITA No. 5021/2009 (Kar) and Essel Mining And Industries Ltd. in ITA NO. 352/KOL/2011 No contrary material was placed before us by the Department. Thus, following the decision of Co-ordinate Bench in assessee's own case in AY 2006- 07, we hold that contribution towards Compensatory Afforestation Fund by the assessee during the impugned AY is allowable. We hold and direct, accordingly. Thus ground no. 5 of the appeal is allowed."

5. As has been claimed by the assessee in the corrigendum application, paragraph 28 of the Tribunal order dated 07/11/2023 may be read as paragraph 25 and the paragraphs thereafter in the Tribunal order may be re-serialled in seriatim i.e. 26,27.....etc.

4. All the other contents in the said order shall stand unamended. This Corrigendum may be read as part and parcel of the ITAT order.

Sd/-
(PADMAVATHY S)
ACCOUNTANT MEMBER

Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

Mumbai; Dated 18/01/2024

KARUNA, *sr.ps*

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai