

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

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

I.T.A. No. 768/Kol/2022
Assessment Year : 2014-15

M/s. Calcutta Springs Ltd.	vs	DCIT, CC-1(2), Kolkata
PAN: AAACC 9765 H		
Appellant		Respondent

Date of Hearing	20.02.2024
Date of Pronouncement	22.02.2024
For the Assessee	Shri Siddharth Jhaharia, FCA
For the Revenue	Shri Sanjay Paul, Addl. CIT

ORDER

Per Sonjoy Sarma, JM:

This appeal of the assessee directed against the order of Id. CIT(A), Kolkata-20 dated 12.12.2022 is arising out of the order u/s 154 of the Income Tax Act dated 01.02.2022 framed by ACIT, Central Circle-1(2), Kolkata.

2. Though the assessee has raised 6 grounds of appeal, the sole grievance is against the addition of Rs. 5,42,823/- computed u/s 14A of the Act for the purpose of computing book profit u/s 115JB of the Act.

3. At the outset, Id. counsel for the assessee submitted that an assessment was framed u/s 143(3) of the Act for A.Y. 2014-15 wherein disallowance u/s 14A of the Act was made. The matter travelled before the Hon'ble Tribunal and vide ITA No. 767/Kol/2022 dated 11.07.2023 the disallowance u/s 14A of the Act was deleted. He further submitted that since the disallowance u/s 14A has itself being deleted, the same cannot be considered for

the purpose of computing book profit u/s 115JB of the Act. Copy of the order of Tribunal dated 11.07.2023 is placed on record.

4. On the other hand, ld. DR vehemently argued supporting the order of authorities below.

5. We after hearing the rival submissions of the parties and perused the material available on record. We notice that the assessing officer while passing the order u/s 154 of the Act computed the book profit u/s 115JB of the Act by adding disallowance of Rs. 5,42,823/- made u/s 14A of the Act.

6. We find that in the regular assessment proceedings u/s 143(3) the disallowance u/s 14A was made. However, since the assessee had not earned any dividend income during the year, This Tribunal placing reliance on the judgement of Hon'ble Delhi High Court in the case of Pr. CIT vs M/s. Era Infrastructure (India) Limited in ITA No. 204 of 2022 dated 20.07.2022 deleted the disallowance u/s 14A of the Act. Therefore, there is no basis for considering the alleged disallowance for computing book profit u/s 115JB of the Act in the proceedings carried out u/s 153A/143(3) of the Act. We thus set aside the ld. CIT(A) and delete the impugned addition.

7. Accordingly ground no. 1 to 4 are allowed.

8. As far as ground no. 5 is concerned raised against the charging of interest u/s 220(2) of the Act, since the disallowance itself is deleted no interest will be leviable on the alleged addition u/s 220(2) of the Act. Accordingly, ground no. 5 is also allowed.

9. Ground no. 6 is general and consequential in nature need not required to be adjudicated.

10. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 22.02.2024.

Sd/-

Sd/-

(Dr. Manish Borad)
Accountant Member

(Sonjoy Sarma)
Judicial Member

Dated: 22.02.2024
Biswajit, Sr. PS

Copy of the order forwarded to:

1. Appellant – M/s. Calcutta Springs Ltd., C/o. M/s. Salarpuria Jajodia & Co., 7. C.R. Avenue, 3rd Floor, Kolkata-700072.
2. Respondent – DCIT, CC-1(2), Kolkata.
3. Ld. CIT
4. Ld. CIT(A)
5. Ld. DR

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata