

आयकर अपीलीय अधिकरण, कोलकाता पीठ 'ए', कोलकाता
IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH: KOLKATA
श्री संजय गर्ग न्यायिक सदस्य एवं श्री राजेश कुमार, लेखा सदस्य के समक्ष
[Before Shri Sanjay Garg, Judicial Member & Shri Rajesh Kumar, Accountant Member]

I.T.A. No.1432/Kol/2023
Assessment Year: 2021-22

Integrated Coal Mining Ltd . (PAN: AAACI 5584 L)	Vs.	ADIT, CPC
Appellant / (अपीलार्थी)		Respondent / (प्रत्यर्थी)

Date of Hearing / सुनवाई की तिथि	26.02.2024
Date of Pronouncement / आदेश उद्घोषणा की तिथि	19.03.2024
For the Appellant / निर्धारिती की ओर से	Shri Khirendra Mohan Gupta, A.R
For the Respondent / राजस्व की ओर से	Shri B. K. Singh, JCIT (SR. D.R)

ORDER/ आदेश

Per Rajesh Kumar, AM:

This is the appeal preferred by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals)-Kolkata [hereinafter referred to as 'Ld. PCIT'] dated 01.11. 2023 for the assessment year 2021-22.

2. At the time of hearing, ground nos. 1 , 2 and 5 are not pressed and therefore the same are dismissed as not pressed.

3. Issue raised in ground nos. 3 & 4 is against the order of Ld. CIT(A) upholding the order of AO,CPC wherein the deduction claimed u/s 80M of the Act by the assessee of Rs. 4,83,91,380/- was denied by ignoring the fact that Finance Act, 2020 provides that deduction u/s 80M of the Act will be applicable in respect of certain inter corporate dividends which was effective from 01.04.2021 and is accordingly applicable to AY 2021-22 and subsequent years. The instant assessment year before us is A.Y.2021-22 and is covered by the provisions of section 80M of the Act. The assessee during the year claimed deduction on account of inter corporate dividends amounting to Rs. 4,83,91,380/- u/s 80M of the Act. However it was not allowed by the AO/CPC in intimation passed u/s 143(1) of the Act dated 30.03.2022.

4. In the appellate proceedings, the Ld. CIT(A) also dismissed the appeal of the assessee upon wrong understanding of provisions of Finance Act, 2020 qua Section 80M. The relevant finding of Ld. CIT(A) is extracted below:

“5.3. In this regard, it is stated that Section 80M of the Act provides for deduction of inter corporate dividends received a domestic company from its subsidiaries. The Section was introduced in the Finance Act, 2020 w.e.f 01.04.2021 and is applicable from 2022-23 onwards. Prior to its insertion, section 80M as inserted by Finance Act, 2002 and later on omitted by Finance Act, 2003.

5.4. The appellant is in appeal for AY 2021-22. As such, deduction u/s 80M did not exist for the year AY 2021-22. Besides, one of the conditions to claim deduction u/s 80M is that the dividend must be received by the domestic company on or after 01.04.2021. This is not the case of the appellant as he has received the dividend at least before 30.09.2020 (the day be distributed it to its shareholders).

5.5. In light of the above, the contention of the appellant that he should be allowed deduction in AY 2021-22, u/s 80M is misconceived.

5.6. Therefore, Ground nos. 6 to 8 are dismissed.”

5. From perusal of the findings of Ld. CIT(A) as extracted above, we find that Ld. CIT(A) has clearly misconstrued the provisions of Section 80M of the Act as inserted by Finance Act, 2020 which are effective from AY 2021-22. We note that the Ld. CIT(A) has recorded a finding that these provisions are applicable from A.Y. 2022-23 which is not correct and wrong findings on the part of the appellate authority and

cannot be sustained. Accordingly we set aside the order of Ld. CIT(A) and direct the AO to allow the deduction u/s 80M of the Act to the assessee as claimed.

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

Order is pronounced in the open court on 19th March, 2024

Sd/-

(Sanjay Garg /संजय गर्ग)
Judicial Member /न्यायिक सदस्य

Sd/-

(Rajesh Kumar / राजेश कुमार)
Accountant Member / लेखा सदस्य

Dated: 19th March, 2024

SM, Sr. PS

Copy of the order forwarded to:

1. Appellant- Integrated Coal Mining Ltd., CESC House, Chowringhee Square, Kolkata-700001
2. Respondent – ADIT, CPC
3. Ld. CIT(A)-Addl./JCIT-Kolkata
4. Ld. PCIT- , Kolkata
5. DR, Kolkata Benches, Kolkata

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata