

**THE INCOME TAX APPELLATE TRIBUNAL,  
'A' BENCH, KOLKATA**

**Before Shri Rajpal Yadav, Vice-President (KZ)  
&  
Shri Rajesh Kumar, Accountant Member**

**I.T.A. No. 340/KOL/2022  
Assessment Year: 2014-2015**

***The Jute Corporation of India Ltd.,.....Appellant  
Hudco Building, 7<sup>th</sup> Floor,  
15N, Nellie Sengupta Sarani,  
Kolkata-700087  
[PAN:AABCT8820B]***

**-Vs.-**

***Deputy Commissioner of Income Tax,.....Respondent  
Circle1(2), Kolkata,  
Aayakar Bhawan, 7<sup>th</sup> Floor,  
P-7, Chowringhee Square,  
Kolkata-700069***

**Appearances by:**

*Shri Vivek Jalan, A.R., appeared on behalf of the assessee*

*Shri S. Datta, CIT, D.R., appeared on behalf of the  
Revenue*

**Date of concluding the hearing : April 10, 2024**

**Date of pronouncing the order : May 01, 2024**

**O R D E R**

**Per Rajpal Yadav, Vice-President (KZ):-**

The assessee is in appeal before the Tribunal against the order of Id. Commissioner of Income Tax (Appeals), National

Faceless Appeal Centre (NFAC), Delhi dated 13.12.2021 passed for A.Y. 2014-15.

2. Before us, the Registry has reported that appeal is time-barred by 110 days. The Authorized Signatory of the assessee-Company has filed application for condonation of delay, wherein it has been pleaded that its previous counsel Shri Biswajit Shaym was sick for a prolonged period and unfortunately expired on 25.02.2023 and, therefore, appeal could not be filed within time. On account of non-availability of new Tax Consultant, the appeal become time-barred by 110 days. After taking into consideration the explanation given by the assessee, we condone the delay and proceed to decide the appeal on merit.

3. The assessee has taken two substantial grounds of appeal, in which it has further taken three sub-grounds under Ground No. 1 and five sub-grounds under Ground No. 2.

4. Ground No. 3 is a general ground, which does not call for recording of any finding.

5. Before appreciating the controversy agitated in this appeal, we deem it appropriate to take note of the list of events filed by the assessee, which will explain the brief history of the litigation, which reads as under:-

**Kolkata, "A" Bench**

**In the matter of**

The Jute Corporation of India Limited  
PAN: AABCT8820B  
15 N, Hudco Building, Nellie Sengupta Sarani,  
Kolkata-700087

8  
07/02/2024

**And in the matter of:**

The list of events as enumerated below in the case of  
I.T.A. No. 340/Kol/2022 for the A.Y. 2014-15-directed to  
be submitted in hearing dated 11.10.2023 which has been  
adjourned to 11.12.2023, further it was adjourned to 24.01.2024,  
further it was adjourned to 13.02.2024.

Hon'ble Sirs,

We refer to the matter and directions provided by your honours to submit a list of dates  
in the matter as per the format directed. In compliance of the directions we are  
submitting herewith as under: -

Serial No.	Date	Events	Particulars/Remarks
1	30.09.2014	Filing of ITR-6	-
2	15.12.2016	Assessment Order u/s 143(3)	<b>Disallowed:</b> 1. Prior period expense - 5,38,953/- 2. Corporate Social Responsibility - 36,45,029/- <b>Omitted:</b> Claim of double deduction in serial no 29 & 31 of schedule BP: 12,85,93,467/- (Thus creating excess refund of Rs 2,08,33,780/-, in order). However, no refund was received.
3	16.01.2017	Application for rectification by assessee u/s 154	Adjustment in excess refund order due to claim of double deduction in serial no 29 & 31 of schedule BP: 12,85,93,467/-.
4	25.03.2019	Order by Principal CIT u/s 263 to A.O.	<b>Direction to reframe the Assessment:</b> Claim of double deduction in serial no 29 & 31 of schedule BP: 12,85,93,467/- (already rectification u/s 154 filed by assessee as supra).


आयकर अधि-कार (आयकर) कोलकाता  
OFFICE OF THE CIT (ITAT)  
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5	04.12.2019	Assessment Order u/s 263/143(3)	<b>Addition to Total Income assessed u/s 143(3) dated 15.12.2016:</b> Add back of - 12,85,93,467/- creating demand (after the adjustment of excess refund which was never received).
6	21.01.2020	Appeal to CIT(A) against assessment order u/s 263/143(3) (Faceless)	<b>Grounds for relief regarding:</b> 1. Prior period Expenses-5,38,953/- 2. Inflation of demand by adjusting the refund of Rs. 2,08,33,780/- which was not received by the appellant.
7	13.12.2021	Order by CIT(A) for appeal filed against assessment order u/s 263/143(3) dated 04.12.2019	<b>Dismissed claim:</b> 1. Prior period Expenses-5,38,953/- 2. Inflation of demand by adjusting the refund of Rs. 2,08,33,780/- which was not received by the appellant.
8	07.06.2022	Appeal before Hon'ble ITAT against order by CIT(A) passed on 13.12.2021	<b>Grounds for relief regarding:</b> 1. Inflation of demand by adjusting the refund of Rs. 2,08,33,780/- which was not received by the appellant. 2. Prior period Expenses-5,38,953/-
9	04.10.2023	Reframe of the grounds of appeal submitted.	<b>Grounds for relief regarding:</b> 1. Inflation of demand by adjusting the refund of Rs. 2,08,33,780/- which was not received by the appellant. 2. Corporate Social Responsibility- 36,45,029/-
10	11.10.2023	Condonation of Delay filed in plain legal paper	To condone delay for 110 days.
11	06.02.2024	Same Condonation of Delay filed by way of affidavit	Delay for 110 days.

The above have been prepared as per the direction given by the Hon'ble ITAT (Bench A) in the courtroom during the hearing conducted on 11.10.2023 and 24/01/2024.

Thanking you,

Yours Sincerely,



Signature of Authorized  
Representative

6. A perusal of the above would indicate that there was a double deduction of Rs.12,85,93,467/- in the original assessment, which was sought to be rectified by the assessee itself by way of an

application moved under section 154 of the Income Tax Act. However, prior to adjudication of such application, ld. Commissioner took cognizance under section 263 of the Income Tax Act and set aside the original assessment vide its order dated 25.03.2019 passed under section 263. Paragraph 2 of this order exhibits the reasons for which such exercise has been done. Therefore, we deem it appropriate to take note of paragraph no. 2, which reads as under:-

*“2. On a perusal of the assessment record of the assessee, it was observed as under:*

*There is a mistake in aggregate of deduction claimed in column No. 32 of Schedule BP. The assessee company claimed deduction of Rs.12,85,93,467/- under the head ‘any amount disallowed under section 43B in any preceding previous year but allow auk- during the previous year’ in column No. 29 of Schedule BP. The assessee again claimed idrtic.il deduction of Rs. 12,85.93,467/- in column No. 31 under the head ‘any other amount allowable as deduction. Taking into consideration the amount of deduction claimed by the assessee in column No. 29 & 31, total deduction of Rs.25,71.86 034/- was arrived at in column No. 32 of schedule BP of return of income for the A.Y 2014- 15. It appears that the assessee company has claimed and has been allowed excess deduction of Rs.12,85,93,467/- (Rs.25,71,86,934 minus Rs.12,85,93,467/-)”.*

7. Ld. Commissioner thereafter made reference to a large number of decisions and set aside the assessment order. Paragraph 5 is also worth to note, which reads as under:-

*“5. I have considered the facts of the case and the short submission of the assesses. The sole issue pertains to excess deduction to the tune of Rs.12,85,93,467/- as elucidated in the show cause notice. The A.O had clearly not considered the glaring observation of the columns of schedule BP, thereby mechanically proceeding to compute the taxable income of the assesses as per its claim. In its submission during the present proceedings, assessee has accepted the ‘apparent’ mistake and ‘inadvertent’ wrong filing of the return of income. In view of the same, the impugned assessment order which is both erroneous and prejudicial to the interest of the revenue, requires to be rectified immediately by giving effect to this order. The ensuing tax demand along with interest as per the Income Tax Act, should be adjusted with*

*the huge refund which had been wrongly determined in the impugned assessment order”.*

8. Ld. Assessing Officer has given effect to this order vide assessment order dated 4<sup>th</sup> December, 2019 passed under section 263 read with section 143(3). The assessee is not dissatisfied *qua* giving effect to the order of ld. CIT passed under section 263 to the extent of exclusion of alleged double deduction of Rs.12,85,93,467/-.

9. Ld. Counsel for the assessee has demonstrated the grievance of the assessee *qua* ultimate computation of taxes. He submitted that the ld. Assessing Officer has computed the demand as under:-

(a)	Gross Tax	Rs.5,17,74,042/-
(b)	Surcharge	Rs. 51,77,404/-
(c)	Education Cess	Rs. 17,08,543/-

Total of such taxes would come out to Rs.5,86,59,989/-.

10. Against the above demand, the assessee had paid as under:-

(a)	TDS/TCS	Rs. 36,77,765/-
(b)	Advance Tax	Rs4,90,00,000/-
(c)	Self-assessment Tax	Rs. 26,80,000/-
	TOTAL	Rs.5,53,57,765/-

11. Ld. Counsel for the assessee further submitted that the assessee has tax credit of Rs.5,53,57,765/- but the ld. Assessing Officer has excluded a sum of Rs.2,08,33,780/-. The ld. Assessing Officer was of the view that this was already excluded therefore,

this credit cannot be granted and this is the area of dispute agitated in Ground No. 1 alongwith sub-grounds.

12. On due consideration of the above facts and circumstances, we are of the view that ld. Assessing Officer is directed to reverify and if no refund is being granted to the assessee, then credit of this amount should not be excluded.

13. In the second ground of appeal, the assessee has submitted that a deduction of Rs.36,45,029/- ought to have been granted under Corporate Social Responsibility (CSR) expenditure. We are of the view that this issue has not been relegated to the ld. Assessing Officer by the ld. CIT in the order passed under section 263. The remedy of the assessee is not available in the present appeal. If such disallowance was made in the original assessment order, then the assessee ought to have challenged that order in an appeal before the ld. CIT(Appeals), which has not been done. The limited jurisdiction of the Tribunal in this second appeal is to the extent, which is risen from the assessment order passed in pursuance of 263 direction and, therefore, all these issues cannot be taken up. This ground of appeal is rejected being not maintainable.

**14. In the result, the appeal of the assessee is partly allowed.**

Order pronounced in the open Court on 01/05/2024.

Sd/-

Sd/-

**(Rajesh Kumar)**  
**Accountant Member**

**(Rajpal Yadav)**  
**Vice-President (KZ)**

***Kolkata, the 1<sup>st</sup> day of May, 2024***

- Copies to :*(1) *The Jute Corporation of India Ltd.,  
Hudco Building, 7<sup>th</sup> Floor,  
15N, Nellie Sengupta Sarani,  
Kolkata-700087*
- (2) *Deputy Commissioner of Income Tax,  
Circle 1(2), Kolkata,  
Aayakar Bhawan, 7<sup>th</sup> Floor,  
P-7, Chowringhee Square, Kolkata-700069*
- (3) *Commissioner of Income Tax (Appeals),  
National Faceless Appeal Centre (NFAC), Delhi;*
- (4) *CIT- , Kolkata*
- (5) *The Departmental Representative;*
- (6) *Guard File  
TRUE COPY*

*By order*

*Assistant Registrar,  
Income Tax Appellate Tribunal,  
Kolkata Benches, Kolkata*

**Laha/Sr. P.S.**