

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

**Before Shri Rajpal Yadav, Vice-President (KZ)
&
Shri Sanjay Awasthi, Accountant Member**

**I.T.A. No. 346/KOL/2024
Assessment Year: 2022-2023**

***Juniper Investments Limited,.....Appellant
Grand Hyatt, Onwer Office,
Off Western Express Highway,
Santacruz (East),
Mumbai-400055, Maharashtra
[PAN: AABCJ7456R]***

-Vs.-

***A.O., Circle-7, Kolkata,..... Respondent
Aayakar Bhawan, 5th Floor,
P07, Chowringhee Square,
Kolkata-700069***

Appearances by:

*Shri Has Mukh Ravaria, A.R., appeared on behalf of the
assesseees*

*Shri B.K. Singh, Addl. CIT, appeared on behalf of the
Revenue*

Date of concluding the hearing: June 06, 2024

Date of pronouncing the order: June 07, 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) dated 21st December, 2023 passed for A.Y. 2022-23.

2. The assessee has raised four grounds of appeal, but its grievances revolve around a single issue, namely, whether the assessee is entitled for lower rate of tax benefit under section 115BAA of the Income Tax Act.

3. The ld. Counsel for the assessee has pointed out that the assessee has filed its return of income under section 139(4) of the Income Tax Act on 20.12.2022. This return was processed under section 143(1) of the Income Tax Act vide order dated 28.07.2023. According to the ld. Counsel for the assessee, copy of the order passed under section 143(1) is available alongwith the Appeal Form. At Serial No. 30 of this order, the tax liability of Rs.1,54,28,913/- has been worked out by the CPC. The case of the assessee was selected for scrutiny assessment and an assessment order has been passed under section 143(3) on 07.03.2024. The ld. Assessing Officer has granted the benefit of section 115BAA of the Income Tax Act and determined the tax liability at Rs.1,16,31,767/-, which is equivalent to the tax liability shown by the assessee against the return of income.

4. The only grievance of the assessee is that it has filed an appeal before the ld. CIT(Appeals) against 143(1) order, pleading therein that excess tax liability worked out by the CPC by denying the benefit of section 115BAA be vacated because tax liability has been determined in scrutiny assessment. The ld. 1st Appellate Authority did not accept this contention of the assessee by observing as under:-

“4.7. The second limb of the ground that he was not provided opportunity is also misconceived as from the Memorandum to Finance Bill, 2008 & 2016 explaining the provisions of section 143(1)(a)(ii), specifies the incorrect claim particularly if such incorrect claim is apparent from any information in the return of income and that can be any information as such as the audit report or some other information as provided by assessee in the return of income. In this context, it is pertinent to mention that earlier only prima-facie arithmetic adjustments can be made but in view of the amendment provisions by the Finance Act, 2008 w.e.f. 01.04.2008, the amended provisions empowers adjustments to be made inter-alia on the basis of remarks indicated in the return of income or incorrect claim apparent from any information in the return of income. Post amendment w.e.f. 01.04.2008, the scope of adjustment u/s.143(1) of the Act has widened and enlarged. It provides that total income shall be computed after making adjustments inter-alia on account of incorrect claim, if such incorrect claim is apparent from any information in the return of income”.

5. With the assistance of Id. Representatives, we have gone through the record carefully. We find that the Id. 1st Appellate Authority has rejected the contention of the assessee on technical issues instead of verifying the complete details. The issues have been examined by the Id. Assessing Officer in scrutiny assessment. The subsequent development by way of passing a scrutiny assessment under section 143(3) depicts the true tax liability imposable upon the assessee. Therefore, the excess liability worked out by CPC, Bangaluru under section 143(1) deserves to be vacated.

6. In view of the above, we allow the appeal of the assessee and vacate adjustment of working out excess tax liability by CPC, Bangaluru under section 143(1). The tax liability is to be determined according to the scrutiny assessment passed under section 143(3) of the Income Tax Act.

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

Order pronounced in the open Court on 07/06/2024.

Sd/-

(Sanjay Awasthi)
Accountant Member

Sd/-

(Rajpal Yadav)
Vice-President (KZ)

Kolkata, the 7th day of June, 2024

*Copies to :(1) Juniper Investments Limited,
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Maharashtra*

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*(2) A.O., Circle-7, Kolkata,
Aayakar Bhawan, 5th Floor,
P07, Chowringhee Square, Kolkata-700069*

(3) Addl/JCIT(A)-12, Mumbai;

(4) CIT ,

(5) The Departmental Representative

(6) Guard File

TRUE COPY

By order

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

Laha/Sr. P.S.