

आयकर अपीलिय अधिकरण, 'बी' न्यायपीठ, चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH, CHENNAI**

श्री एबी टी वर्की, न्यायिक सदस्य एवं श्री एस. आर. रघुनाथा, लेखा सदस्य के समक्ष
**BEFORE SHRI ABY T VARKEY, HON'BLE JUDICIAL MEMBER AND
SHRI S. R. RAGHUNATHA, HON'BLE ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: **774/Chny/2024**

निर्धारण वर्ष / Assessment Year: 2018-19

K U Sodalamuthu and Co
Private Limited,
428, Mettupalayam Road,
Coimbatore – 641 043
[PAN: AAACK-7236-M]

Deputy Commissioner of Income
Tax,
Corporate Circle-1,
63, Race Course Road,
Coimbatore – 641 025.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri. N.V. Lakshmi, Advocate
प्रत्यर्थी की ओर से/Respondent by : Shri. D. Hema Bhupal, JCIT

सुनवाई की तारीख/Date of Hearing : 29.04.2024

घोषणा की तारीख/Date of Pronouncement : 19.06.2024

आदेश /ORDER

PER S. R. RAGHUNATHA, ACCOUNTANT MEMBER:

This appeal instituted by the assessee is against the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, for the assessment year 2018-19, vide order dated 06.02.2024.

2. The assessee has raised several grounds of appeal. However, ground no. 1 to 5 are general in nature hence not

pressed. Therefore, ground no. 6 to 10 are reproduced as under:

"6 The CIT(A) erred in confirming the disallowance of deduction of Rs 34,86,976/- u/s 80IA on the ground that the appellant did not file documentary evidence. The CIT(A) failed to consider the financial statement for undertaking and approval from TNEB which were furnished along with the Form 10CCB.

7 The CIT(A) erred in upholding the order of the assessing officer which does not even give any reason for disallowance of deduction U/s 80IA of the Act.

8 The CIT(A) erred in confirming the addition of Rs 52,41,051/- without appreciating the fact that the opening stock is merely the closing stock of the previous year which has been accepted in scrutiny assessment.

9 The CIT(A) erred in holding that the appellant was not maintaining regular books of accounts. The CIT(A) failed to appreciate that the said finding is contrary to the material on record.

10 The CIT(A) erred in adding back the disallowance of Rs 58,21,625/- without appreciating the fact that the said expenses were already disallowed by the appellant itself in the Return of Income filed u/s 139(1) for the impugned assessment year. The CIT(A) failed to appreciate that upholding the said disallowance amounts to double taxation."

3. The brief facts are that, the assessee is a private limited company carrying on the business of manufacturing and exports of automatic paper cone machine. During the assessment year 2018-19, the assessee had filed its return of income by declaring an income of Rs.9,88,480/-, after claiming a deduction of Rs.34,34,951/- u/s. 80IA of the Income-tax Act, 1961 (hereinafter referred to as "the Act"). The case was

selected for scrutiny through CASS and issued a notice u/s. 143(2) on 22.09.2019. The assessment was concluded by the Assessing Officer on 28.04.2021 u/s. 143(3) r.w.s. 144B of the Act by assessing the total income of the assessee as Rs.1,54,21,632/-, by making the following additions:

- (i) unexplained opening stock of Rs.52,41,051/-
- (ii) deductions claimed u/s. 80IA of the Act at Rs.34,86,976/-
- (iii) expenditure of personal nature of Rs.1,52,392/-
- (iv) expenditure of interest on TDS delayed payment and compensation paid at Rs.55,52,733/-.

Aggrieved by the order of the Assessing Officer, the assessee preferred an appeal before the Id.CIT(A). The Id.CIT(A) confirms the impugned action of the Assessing Officer for all the additions without considering any of the submissions made by the assessee. Aggrieved by the order of the Id.CIT(A), the assessee preferred an appeal before us.

4. Before us, the Id.AR stated that the assessee had submitted/uploaded relevant documents and details called for during the assessment proceedings pursuant to notice u/s. 142(1) of the Act dated 22.12.2020 by the Assessing Officer. through e-proceedings on 05.01.2021 and 06.01.2021.

Further, the Id.AR stated that the details sought for four disallowances made by the Assessing Officer were provided with relevant documents in support of the corresponding issues in the following manner:

(i) unexplained opening stock of Rs.52,41,051/-:

The complete financials as on 31.03.2017, wherein the closing stock of Rs.52,41,051/- has been shown which is duly audited by Chartered Accountant and the same had been filed with Income Tax Department along with return of income. The same has been uploaded to prove that the opening stock as on 01.04.2017 (assessment year 2018-19) has been carried forward from the previous financial year's closing stock. Further, the current financial year's (assessment year 2018-19) sales register, purchase register along with quantitative details of the inventory have also been uploaded in the e-portal website.

(ii) deductions claimed u/s. 80IA of the Act at Rs.34,86,976/-:

The assessee had filed Form 10CCB along with return of income for having claimed the deduction u/s.

80IA of the Act on account of power generations made and supplied to TNEB.

(iii) expenditure of personal nature of Rs.1,52,392/-:

The assessee had given a detailed statement of computation of income and tax thereon for the assessment year 2018-19, wherein the said expenditure debited to profit and loss account has already been voluntarily disallowed while arriving the total income while filing of income tax returns. The same had not been considered by the Assessing Officer and the Id.CIT(A) and again the said amount has been added to the total income declared.

(iv) expenditure of interest on TDS delayed payment and compensation paid at Rs.55,52,733/-:

The assessee had also stated that the detailed statement of computation of income has been submitted, wherein the 'interest on delayed payment of TDS' and also the compensation paid which have been debited to profit and loss account to the tune of Rs.52,733/- and Rs.55,00,000/- respectively have already been added back to the book profit while arriving the total income

before filing return of income. Therefore, prayed for deletions of all the impugned additions made by the Assessing Officer and that of the Id.CIT(A).

5. The Id.AR further stated that these materials and information were available in the records before the Assessing Officer during the assessment proceedings, still the Assessing Officer has erred in making the above additions and passed the impugned order. Further, the Id.AR had also furnished all the relevant documents including the certificate obtained from the TNEB in support of the claim made based on Form 10CCB filed u/s. 80IA under Chapter VIA of the Act, before the first appellate authorities. However, the Id.CIT(A) without considering any of the documents and submissions, confirmed the impugned action of the Assessing Officer by dismissing the appeal of the assessee.

6. Further, the Id.AR filed paper book consisting of pages 1 to 283 as under:

Sl.No	Particulars
1	Computation of total income
2	Form 3CD
3	Form 10CCB for AY 2018-19

4	Approval from Tamil Nadu Electricity Board
5	Financial Statements for the year ended 31.03.2018
6	Particulars of opening stock
7	Assessment order for AY 2017-18
8	Financial Statements for the year ended 31.03.2017

7. Per contra, the Id.DR relied on the orders of the AO and that of Id.CIT(A).

8. We have heard both the parties, perused materials and paper book available on record and gone through orders of the authorities below. It is an admitted fact that the assessee had filed return of income after claiming deduction u/s. 80IA of the Act to the extent of Rs.34,86,976/- and also filed corresponding Form no. 10CCB, which is the audit report issued by CA to claim the deduction u/s. 80IA of the Act. The Id.AR also brought to the notice that the claim u/s. 80IA of the Act has been claimed by the assessee from the assessment years 2010 and 2011 and the same has been accepted by the department. The claim of deduction u/s. 80IA of the Act is on account of generation, transmission and distribution of power made by the assessee by setting up a wind mill and supplied electricity generated to TNEB. Further,

the assessee also provided certificate from TNEB for having supplied the electricity during the assessment year 2018-19 (vide page no. 25 to 28 of paper book). On perusal of relevant documents and submissions of the Id.AR, we are of the opinion that the claim of deduction u/s. 80IA of the Act made by the assessee is in accordance with the provisions of the Act. Therefore, we are inclined to remit back this issue for limited purpose to the file of the Assessing Officer and direct him to verify the relevant certificate of TNEB produced by the assessee and allow the deduction in accordance with law. Hence, the ground no. 6 & 7 of assessee are allowed.

9. The assessee's ground no. 8 & 9 are related to addition made by the Assessing Officer on account of opening stock of Rs.52,41,051/-. It is noted that assessee is a private limited company and the books of accounts of the company is audited under the Companies Act by Chartered Accountant. During the assessment proceedings, the assessee had furnished the details of stock along with audited financials for the assessment year 2017-18 also to prove that the closing stock of previous assessment year has been carried forward as an opening stock for the present assessment year.

However, the Assessing Officer having not convinced with the incomplete details, has decided to reject the books of accounts u/s. 145(3) of the Act and added the opening stock value of Rs. 52,41,051/- to the returned income and passed the assessment order. It is noted that the Id.CIT(A) without considering submissions made by the assessee confirmed the impugned action of the Assessing Officer stating that no quantitative details of principal items of goods traded or raw materials as well as finished goods have not been reported in the tax audit report.

10. Having gone through the submissions and the actions of the lower authorities, it is noted that the assessee company has maintained proper books of accounts and the same has been audited by a statutory auditors regularly and filed the return of income. The assessee has filed a copy of the assessment order passed u/s. 143(3) dated 11.12.2019 of the Act based on complete scrutiny for the assessment year 2017-18, wherein the returned income has been accepted by the Assessing Officer vide page no. 264 of the paper book. Based on this, an inference can be drawn that the closing stock of the assessee as on 31.03.2017 is verified and

accepted by the Assessing Officer, which is taken as opening stock for the assessment year 2018-19. Therefore, the Assessing Officer has erred in adding opening stock as unexplained to the total income to the tune of Rs. 52,41,051/-. Further, it is also noted that the assessee has filed inventories statement as on 01.04.2017 (i.e., opening stock), which is forming part of the paper book from page no. 39 to 263 amounting to Rs.2,20,48,579/-, which consists of raw materials at Rs.31,12,045/-, consumables of Rs.1,36,95,483/- and finished goods and work-in-progress of Rs.52,41,051/-, which is shown in the Schedule 11 of the balance sheet. The entire list of opening stock had also been submitted by the assessee before the Assessing Officer and the Id.CIT(A) during the respective proceedings.

11. In light of the above discussions and considering the facts and circumstances of the issue, the opening stock of the company has been properly maintained and submitted by the assessee. We observe that the AO has erred in rejecting the books of accounts u/s. 145(3) of the Act and making an addition of opening stock of Rs.52,41,051/- to the income was bad in law. The Id.CIT(A) was also erred in confirming

the addition during the appellate proceedings. Therefore, we are inclined to delete the additions and allow this ground in favour of the assessee. Hence, this ground is allowed accordingly.

12. The ground no. 10 has been raised for impugned disallowances towards certain expenses. The assessee had made the following expenditure and debited to the profit and loss account:

(i) interest paid on late payment of TDS	Rs.52,733/-
(ii) Pooja expenses	Rs.1,15,392/-
(iii) compensations paid	Rs.55,00,000/-

It is noted that the above said expenditure have been debited to profit and loss account, but while preparing the computation of total income for the purpose of filing return of income, the above said expenditures have been added back to arrive at the total income. Further, the assessee has shown the above expenditures in Column no. 21(a) of tax audit report also as disallowances. However, both the lower authorities have erred in making a disallowance of expenditures which have not been claimed as allowable

expenditure and voluntarily added back such expenditure to arrive at the total income by the assessee himself.

13. Therefore, both the lower authorities have erred in disallowing the impugned expenses during the respective proceedings. Considering over all facts and documents, we direct the Assessing Officer to re-compute the total income of the assessee by deleting the disallowance made on account of the expenditures of interest paid on late payment of TDS, Pooja expenses and compensations paid. Hence, the assessee succeeds in the ground no. 10.

14. Since, grounds of appeal from 1 to 5 are not pressed and hence dismissed as not pressed.

15. In the result, appeal filed by the assessee is partly allowed.

Order pronounced in the open court on 19th June, 2024 at Chennai.

Sd/-
(एबी टी वर्की)
(ABY T VARKEY)
न्यायिक सदस्य/**Judicial Member**

Sd/-
(एस. आर. रघुनाथा)
(S. R. RAGHUNATHA)
लेखासदस्य/**Accountant Member**

चेन्नई/Chennai,

दिनांक/Dated, the 19th June, 2024

JPV

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT – Chennai/Coimbatore/Madurai/Salem
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF