

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

श्री एबी टी. वर्की, न्यायिक सदस्य एवं
श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष

BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.1516/Chny/2023
निर्धारण वर्ष/Assessment Year: 2018-19

M/s.CorroHealth Infotech Pvt. Ltd., [resultant entity post-merger of Visionary RCM Infotech (India)], DLF, IT Park – SEZ, 1B, 3 rd Floor, 1/124, Shivaji Garden, Mount Poonamalee Road, Nandambakkam, Kudiyiruppu SO, Kanchipuram District-600 089.	v.	The DCIT, Corporate Circle-1(1), Chennai.
[PAN: AAICC 4941 P]		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Shri Sharath Rao, CA & Shri Shreyansh Kumar- Kochar, CA
प्रत्यर्थी की ओर से /Respondent by	:	Dr.D.Praveen, JCIT
सुनवाईकीतारीख/Date of Hearing	:	16.05.2024
घोषणाकीतारीख /Date of Pronouncement	:	10.07.2024

आदेश / ORDER

PER ABY T. VARKEY, JM:

This is an appeal preferred by the assessee company, M/s.CorroHealth Infotech Pvt. Ltd., [resultant entity post-merger of Visionary RCM Infotech (India)], DLF, IT Park – SEZ, 1B, 3rd Floor, 1/124, Shivaji Garden, Mount Poonamalee Road, Nandambakkam, Kudiyiruppu



:: 2 ::

SO, Kanchipuram - 600 089, against the order of the Learned Commissioner of Income Tax (Appeals)/NFAC, (hereinafter in short 'the Ld.CIT(A)'), Delhi, dated 20.10.2023 for the Assessment Year (hereinafter in short 'AY') 2018-19.

2. The main grievance of the assessee is against action of the Ld.CIT(A) dismissing the assessee's claim of deduction claimed u/s.80JJAA of the Income Tax Act, 1961 (hereinafter in short "the Act") in respect of employees hired in AY 2018-19.

3. The brief facts of the case are that the assessee is engaged in the business of providing integrated revenue cycle management services in the global health care industry. The assessee filed its return of income (hereinafter referred to as RoI found placed at Page No.88-168) along with Form No.10DA electronically uploaded which was required to be filed for claiming deduction u/s.80JJAA of the Act, wherein, assessee claimed deduction of Rs.3,17,79,259/- u/s.80JJAA of the Act (refer to Page No.29-31 of paper book) but, the AO noted that column Nos.5(c) to (e) of Form 10DA was not filled. Thereafter, assessee revised its return of income on 07.03.2019 declaring total income of Rs.41,02,97,420/- and had filed Form 10DA and reiterated the deduction of Rs.3,17,79,259/- u/s.80JJAA of the Act. The said amount according to the assessee included deduction attributable to AY 2017-18 being the 2nd year of claim u/s.80JJAA of the Act in respect of employment provided during the earlier AY 2017-18.



:: 3 ::

Subsequently, on self-review/scrutiny suo-motto carried out by the assessee Company, it was found out that certain employees who were considered on the payrolls of the Company for the FY 2016-17 had absconded in FY 2017-18. And resultantly, the Company had inadvertently claimed deduction u/s.80JJAA of the Act for such employees in FY 2017-18. Upon identifying the aforementioned mistake, the assessee Company suo-motto, rectified its mistake and obtained a revised Form 10DA claiming lower deduction of INR 2,99,29,571 u/s.80JJAA of the Act for the AY 2018-19. (Revised Form No.10DA filed manually before the AO on 03.12.2019 refer Page Nos.64-65 of the paper book). As noted, the AO show caused the assessee as to why the assessee didn't fill up Column Nos.5(c) to (e) in Form 10DA (which was upload along with RoI) and the assessee submitted that there were technical glitches in the system and filed manually copy of the Audit Report in Form 10DA prepared as early as on 28th November, 2019. However, the AO didn't agree. According to him, the Form 10DA uploaded along with RoI was defective and therefore, invalid and so refused to grant deduction of Rs.3,17,79,259/- by assessment order dated 17th May 2021.

4. Aggrieved, assessee preferred an appeal before the Ld.CIT(A). The Ld.CIT(A) noted that in order to claim deduction u/s.80JJAA of the Act, it was mandatory to furnish Form No.10DA along with return of income. And taking note that the Audited Report (Form No.10DA) was filed on



:: 4 ::

28.11.2019 was invalid [since some columns in it were blank] and in addition to that he found discrepancy in the claim made in the manual Form 10DA filed during assessment proceedings and the uploaded Form 10DA along with RoI in as much as assessee in both the original as well as revised Form 10DA claimed deduction of Rs.3,17,79,259/-, whereas, assessee finally claimed during assessment proceedings deduction of Rs.2,99,29,571/-. Taking note of the discrepancies and omissions according to the Ld.CIT(A), assessee company didn't satisfy the conditions for claiming deduction u/s.80JJAA of the Act r.w.r.19AB of the Income Tax Rules, 1962 (hereinafter in short 'the Rules') and rejected the appeal of the assessee by holding as under:

5.7.1. The Appellant has claimed deduction u/s.80JJAA for the A.Y.2017-18 and the AO has accepted the same in the scrutiny assessment.

5.7.2. The Appellant has claimed deduction u/s.80JJAA for the A.Y.2018-19. The Appellant has also filed Form 10DA -original & revised.

5.7.3. Before completion of scrutiny assessment u/s.143(3) r.w.s. 144B on 17.05.2021 by the AO, NeAC, for the A.Y.2018-19, the Appellant Assessee on its own volition has revised-reduced the deduction claimed u/s.80JJAA from Rs.3,76,16,759/- mentioned in the Original & Revised Return for the A.Y.2018-19, to Rs.2,99,29,571/-, by filing Revised Form 10DA on 28.11.2019.

5.7.5. The AO has not appreciated the above facts properly and has disallowed the deduction claimed u/s.80JJAA of the Act, at Rs.3,17,79,260/-

5.8. But the bare fact and admitted fact is that, the Appellant has not mentioned the correct amount of deduction claimed u/s.80JJAA in the ITR-Return of income filed.

Admittedly the Appellant contradicts itself in mentioning the different figures in the ITR filed and FORM10 DA-Original and revised.

After duly considering the grounds of appeal, statement of facts, reply filed during appeal proceedings and the details mentioned in the documentary evidence uploaded by the Appellant during appeal proceedings, it is hereby held that there is no merit in the appeal filed by the Appellant and the same is hereby DISMISSED.



:: 5 ::

At the same time, it is also hereby held that the disallowance made of Rs.3,17,79,260/- in the order passed u/s 143(3) r.w.s.144B on 17.05.2021 by the AO NeAC, for the A.Y.2018-19, is also not correct.

The AO has not properly considered the details mentioned in the FORM 10DA-original and revised.

5.9. The Appellant has a way out to seek remedy. The Appellant may prefer a petition u/s 119(2) (b) of the I.T. Act, before the jurisdictional CIT/DIT, for condoning the delay for filing revised return for the A.Y.2018-19 and file a revised return for the A.Y.2018-19 claiming deduction u/s 80JJAA at Rs.299,29,571/-. To substantiate its claim the Appellant may also file detailed computation u/s 80JAA for the A.Y.2018-19, as done by it for the A.Y.2017-18.

5. Aggrieved, the assessee is before us. From the discussion supra, it is noted that in the earlier Assessment Year 2017-18, the AO has accepted the claim of deduction u/s.80JJAA of the Act for AY 2017-18 in the scrutiny assessment. The assessee has claimed deduction u/s.80JJAA of the Act for the relevant AY 2018-19 and had uploaded Form No.10DA along with RoI original as well as revised as noted supra. However, before completion of the scrutiny assessment u/s.143(3) r.w.s.144B of the Act on 17.05.2021 by the AO, assessee had filed another revised claim of deduction by reducing the claim u/s.80JJAA of the Act from Rs.3,76,16,759/- to Rs.2,99,29,571/- which was manually filed on 28.11.2019. Thus, Form No.10DA was before the AO when he was processing/assessing the income of the assessee. In such a scenario, the AO ought to have adjudicated the claim of assessee u/s.80JJAA of the Act, since the Audit Report in Form 10DA was filed on 03.12.2020 before the assessment was framed on 17.05.2021. For such a proposition, we rely on the decision of the Hon'ble Madras High Court in the case of M/s. AKS Alloys (P) Ltd., wherein, their Lordship's have held it case of claim



:: 6 ::

u/s.80IB that if the Audit Report in Form 10CCB is filed before the assessment order is passed, the requirement of law is satisfied and that filing of Audit Report along with RoI is not mandatory but is directory.

6. We also note that the Hon'ble Supreme Court in the case of CIT v. GM Knitting Industries (P) Ltd., reported in [2015] 376 ITR 456 (SC) has also upheld the decision of the Hon'ble Madras High Court in the case of CIT v. AKS Alloys (P) Ltd. (supra).

7. The Hon'ble Madras High Court in the case of CIT v. Jayant Patel held that the requirement of filing Audit Report along with return for claiming deduction u/s.80JJ(6A) of Income Tax Act, was directory and not mandatory; and production of audit report before the appellate authority was sufficient compliance with the requirement of the statute, and upheld the action of the Tribunal directing the Ld.CIT(A) to consider the Audit Report that has been filed by the assessee before him and decide the case u/s.80JJAA(6A) of the Act, on merits. Similar view has been taken in several cases including in the case of CIT v. A.N.Arunachalam reported in [1994] 75 taxman 529 (Mad.).

8. In the light of the aforesaid, we set aside the impugned order of the Ld.CIT(A) and restore the issue of deduction u/s.80JJAA of the Act, back to the file of the AO for the limited purpose of deciding the deduction claim u/s.80JJAA of the Act of Rs.2,99,29,571/- on merits. The AO is



ITA No.1516/Chny/2023 (AY 2018-19)
M/s.CorroHealth Infotech Pvt. Ltd.

:: 7 ::

directed to give proper opportunity to the assessee before passing the order in accordance to law.

9. In the result, appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on the 10th day of July, 2024, in Chennai.

Sd/-
(मनोज कुमार अग्रवाल)
(MANOJ KUMAR AGGARWAL)
लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-
(एबी टी. वर्की)
(ABY T. VARKEY)
न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,
दिनांक/Dated: 10th July, 2024.
TLN, Sr.PS

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT, Chennai / Madurai / Salem / Coimbatore.
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF