

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "SMC", PUNE

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER
AND
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.882/PUN/2024

निर्धारण वर्ष / Assessment Year : 2023-24

Vitalize Galaxy Private Limited, S.No.861, Ashoka House, Ashoka Marg, Wadala, Nashik 422 011, Maharashtra PAN : AAACU8750G	Vs.	DDIT, CPC, Bengaluru
Appellant		Respondent

Assessee by : Shri Pramod S. Shingte
Revenue by : Shri Manoj Kumar Tripathi

Date of hearing : 15.07.2024
Date of pronouncement : 23.07.2024

आदेश / ORDER

PER INTURI RAMA RAO, AM:

This is an appeal filed by the assessee directed against the order of the CIT(A) dated 29.02.2024 for the assessment year 2023-24.

2. Briefly, the facts of the case are that the assessee is a company engaged in the business of catering, running cafet area, providing food to hospitals, schools/other entities. The Return of Income for the A.Y. 2023-24 was filed on 25.10.2023 after claiming deduction of Rs.5,27,010/- u/s.80JJAA of the Income-tax Act, 1961 (hereinafter also called 'the Act'). The requisite Audit Report in the prescribed Form No.10DA certifying the total amount of deduction was required to be filed on or before 30.09.2023, i.e. due date for submission of the Audit Report u/s.44AB of the Act. However, the assessee filed the Audit

Report in Form No.10DA on 25.10.2023. The CPC while processing the said return of income u/s.143(1) had denied the amount of deduction u/s.80JJAA of the Act by assigning the reason that the Audit Report in Form No.10DA was not filed within the due date specified under the provisions of the Income-tax Act, 1961

3. Being aggrieved by the said intimation u/s.143(1), an appeal was filed before the CIT(A) who vide impugned order confirmed the action of the CPC placing reliance on the provisions of Rule 19AB of the Income-tax Rules, 1962 specifying the due date for furnishing the Audit Report in Form No.10DA for claiming deduction u/s.80JJAA of the Act.

4. Being aggrieved, the assessee is in appeal before the Tribunal in the present appeal.

5. The Id. Authorised Representative submits that time line prescribed under Rule 19AB of the Income-tax Rules, 1962 is merely a directory in nature since the prescribed Audit Report in Form No.10DA was available with the CPC as on the date of processing the return of income. No prejudice is caused to the Revenue on account of delay in submission of the Audit Report in Form No.10DA. Placing reliance on the decision of the Tribunal in the case of United World Against Diabetes in ITA No.618/PUN/2024, order dt. 06.05.2024, the Id. AR submits that the CPC be directed to amend the intimation u/s.143(1) of the Act.

6. On the other hand, the Id. DR submits that the due dates specified is mandatory in nature and therefore, the CPC was justified in disallowing the amount of deduction u/s.80JJAA of the Act.

7. We heard the rival submissions and perused the material on record. The CPC while processing the return of income u/s.143(1) made adjustment by disallowing the claim of deduction u/s.80JJAA of the Act on the ground that the prescribed Audit Report in Form No.10DA was not filed within the specified time under Rule 19AB of the Income-tax Rules, 1962. Admittedly, the Audit Report in Form No.10DA was filed by the assessee on 25.10.2023 whereas the return of income was processed on 18.01.2024. Therefore, the prescribed Audit Report in Form No.10DA was very much available at the time of processing the return of income by the CPC which should have been taken into consideration by the CPC. The time line prescribed under Rule 19AB is only directory. If the Audit Report was available at the time of processing the return of income, no prejudice is caused to the Revenue. The CPC should have taken into consideration the Audit Report and processed the return. In the circumstances, we remit the matter back to the CPC to amend the intimation by taking into consideration the Audit Report in Form No.10DA.

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

Order pronounced on this 23rd day of July, 2024.

sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

Pune / Dated : 23rd July, 2024.
Satish

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "SMC" बेंच, पुणे / DR, ITAT, "SMC" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.