

IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH KOLKATA

**Before Dr. Manish Borad, Accountant Member
Shri Pradip Kumar Choubey, Judicial Member**

**I.T.A. No. 188/Kol/2024
Assessment Year: 2021-22**

**Veejay International (India),
2nd Floor, 1, Ramjidas Jethia Lane,
Kolkata - 700007
[PAN: AAEFV6806H]**

Appellant

vs.

**Income Tax Officer
Ward 43(1), Kolkata,
3, Government Place (west),
Kolkata - 700001**

Respondent

Appearances by:

Assessee represented by : Shri R. Chowdhry, FCA
Department represented by : Shri P.P Barman, Additional CIT

Date of concluding the hearing : July 02, 2024
Date of pronouncing the order : July 22, 2024

ORDER

Per Dr. Manish Borad, Accountant Member:

This appeal filed by the assessee pertaining to the Assessment Year (in short 'AY') 2021-22 is directed against the order passed u/s 250 of the Income Tax Act, 1961 (in short the 'Act') by the Commissioner of Income-tax (Appeals)-2, Chennai dated 08.12.2023 arising out of intimation dated 30.09.2022, passed under Section 143(1) of the Act.

2. The Assessee has raised the following grounds of appeal:

1. That on the fact and circumstance the order of ADDL/JCIT was not correct is upholding the adjustment of Rs. 5,02,979/- made by Centralized Processing Center (Income Tax Department), Bengaluru while processing the return u/s 143(1)

in respect of refundable of GST paid on purchase for export and as GST is not chargeable on export sale.

2.(a). That on the fact and circumstances of the case Learned ADDL/JCIT erred in confirming the addition of Rs. 5,02,979/- ignoring the fact that GST is not routed through Profit & Loss Account as the same is maintained on exclusive method and the amount of GST paid on purchase of agriculture product is shown in Balance Sheet as

(b). That on the fact and circumstances of the case Learned ADDL/JCIT erred is not appreciating that GST on Purchase for export when paid is shown in Balance Sheet as Receivable and when refund is received the same is reduced from GST Receivable as not routed through Profit & Loss Account as being maintained on exclusive method as per the Guidance Note on 44AB of ICAI and this is not tax effect thereon.

(c). That on the fact and circumstances of the case erred if it held the refund of GST is income of the Assessee the payment GST made by the Assessee is to be held as allowable.”

3. The grievance of the Assessee is that the Ld. CIT(A) erred in confirming the action of Centralized Processing Centre (CPC) upholding the addition of Rs. 5,02,979/- for the Goods & Service Tax (GST) received as refund during the year only on the ground that the same has not been routed through profit and loss account.

4. At the outset, the Ld. Counsel for the Assessee submitted that the Assessee firm is engaged in export business and do not charge any GST on the sale of goods. However, the GST paid on the purchases is subsequently claimed as refund and the Assessee shows the GST paid as advance in the balance sheet and whenever refund is received the same is reduced. He also stated that the Assessee has not claimed the GST paid as an expenditure in that P & L Account. Therefore, impugned addition deserves to be deleted.

5. On the other hand, Ld. Departmental Representative vehemently argued supporting the order of lower authorities.

6. We have heard the rival contention and perused the material placed before us. Addition for GST refund at Rs. 5,02,979/- is in dispute before us. We note that the Assessee furnished the return of income for AY 2021-22 on 14.03.2022. Assessee is into export of goods and therefore, is not liable to charge GST on the sales. However, the purchases made by it are subject to GST and the Assessee is therefore, eligible for refund of GST paid by it. Undisputedly, the Assessee is not claiming the GST paid on the purchases as an expenditure and therefore, the same is not routed through profit and loss account. Thereafter, the GST paid by Assessee for the year is shown on the assets side of the balance sheet under the head advances and whenever the clam of refund is received the same is reduced from the GST balance and this accounting system has been followed consistently. It is not the case of any unpaid liability at the year end which may attract the provision of Section 43B of the Act. We also note that since the Assessee is not liable to charge GST on exports, it is only required to route it through its profit and loss account Provision of Section 145A of the Act in relation to such inclusive method for GST charged on sales and GST paid on purchase is not applicable in the case of the present Assessee.

7. We further notice that the CPC had made adjustment to make addition of Rs. 5,02,979/- solely on the basis of observation given by tax audit report in Clause 27(a). In the said clause only the information is asked about to the amount of Central Value Added Tax credits/input stock credit value or utilisation during the previous year and its treatment in profit and loss account and treatment of outside Central Value Added Tax credit/input tax credit. Auditor has only given the information about the GST paid and that the same has not been routed through profit and loss account which nowhere indicates that an addition for the GST refund has to be made. It can be understood with an example wherein if the Assessee paid Rs. 1000/- as GST during the year and is not require to charge any GST on sales them it is eligible to claim refund of Rs. 1000/. One method can be

to claim the GST paid as an expenditure and refund of GST to be shown as income. The other method can be that the Assessee do not claim Rs. 1000/- as an expenditure and directly show it as balance under the head loans and advances and when the refund is received, it is to be reduced from the balance Rs. 1000/-.

8. We have examined the details of the Assessee and found that, since the Assessee consistently maintained its account by not claiming the GST paid on purchase as an expenditure therefore, the Assessee is not required to show the refund of GST as income. As the Ld. DR failed to controvert this fact we are inclined to hold in favour of the Assessee and delete the impugned addition. Our view is supported by the recent decision of this Tribunal in the case of *DCIT Vs. K Kalpana Industries India Limited Kolkata, ITA No. 815-816/Kol/2023 dated 21.03.2024* where also similar issue was raised before this Tribunal and the appeal of the Revenue was dismissed. Respectfully following the same we hereby set aside the finding of Ld. CIT(A) and delete the impugned addition of Rs. 5,02,279/-. Ground No. 1, 2(a) (b) & (c) raised by the Assessee are allowed. Ground No. 4 is general in nature which needs no adjudication.

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

Kolkata, the 22nd July, 2024.

Sd/-
[Pradip Kumar Choubey]
Judicial Member

Sd/-
[Dr. Manish Borad]
Accountant Member

Dated: 22.07.2024.
Alindra, PS

Copy of the order forwarded to:

- 1 Veejay International (India),
2. Income Tax Officer Ward 43(1), Kolkata
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches