

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'F' BENCH
MUMBAI**

**BEFORE: SHRI OM PRAKASH KANT, ACCOUNTANT MEMBER
&
SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER**

**ITA No. 1945/MUM/2024
(Assessment Year : 2020-21)**

West Coast Paper Mills Ltd. Office No.23-24, 2 nd Floor, Free Press House, Free Press Journal Marg, 215, Nariman Point, Mumbai-400021.	Vs.	DCIT, CIR-1(3)(1) Room No. 540, 5 th Floor, Aayakar Bhavan, M.K. Road, Mumbai-400020.
PAN/GIR No. AAAC4179N		
(Appellant)	..	(Respondent)

Assessee by	Shri. Alpesh Dharod
Revenue by	Shri. Ankush Kapoor CIT DR
Date of Hearing	01/07/2024
Date of Pronouncement	08/08/2024

आदेश / O R D E R

PER SUNIL KUMAR SINGH (J.M):

1. This appeal has been preferred against the impugned order dated 23.02.2024 passed in Appeal no. NFAC/2019-20/10303706 by the Ld. Commissioner of Income-tax(Appeals)/ National Faceless Appeal Centre (NFAC) [hereinafter referred to as the "CIT(A)"] u/s. 250 of the Income-tax Act, 1961 [hereinafter referred to as "Act"] for the Assessment year [A.Y.] 2020-21, wherein learned CIT(A) has dismissed assessee's appeal on the ground that the

- jurisdictional AO has granted relief by issuing rectification order u/s. 154 of the Act.
2. The brief facts state that assessee e-filed his return of income for A.Y. 2020-21 on 12.02.2021, disclosing the income of Rs. 1,13,36,30,760/-. The return was processed u/s. 143(1) of the Act on 29.12.2021. Subsequently, the case was selected for scrutiny and statutory notices u/s. 143(2) r/w 142(1) was issued and served upon the assessee. Assessing Officer made addition of Rs. 56,27,95,411/- and assessed total income at Rs. 1,69,64,26,171/- u/s. 143(3) r/w 144B r.w.s 144(C)(3) of the Act. Aggrieved by the assessment order dated 09.11.2023 assessee filed an appeal before learned CIT(A). During the pendency of the first appeal before learned CIT(A), assessee also moved rectification petition before Ld. AO in respect of some of the issues, which were also part of issues in first appeal taken in first appeal and informed learned CIT(A) in respect of the same with the prayer that the issues, if rectified by the jurisdictional AO, shall not be pressed in the first appeal. However, learned CIT(A), without going on the merits in respect of the remaining grounds, which were not part of the issues under rectification, dismissed assessee's appeal as infructuous.
 3. Assessee filed his appeal before this Tribunal on the ground that learned CIT(A) has misunderstood the information submitted by the assessee and erred in dismissing assessee's appeal holding it as infructuous, ignoring the fact that the rectification order was not yet passed by JAO and all the

issues raised before him were not before JAO for rectification. Prayed to restore the matter before learned CIT(A) for deciding on merit.

4. In response to the notice issued by the tribunal, learned DR appeared and participated in the hearing.
5. We have perused the records and heard learned representatives on behalf of both the parties.
6. Learned AR has submitted that out of 22 grounds raised before learned CIT(A), only 08 grounds were part of the rectification petition filed before learned AO, the remaining grounds of disallowances/additions, which were outside the scope of rectification proceedings, were to be decided by the learned CIT(A) on merit. He has misinterpreted assessee's clarification letter and prayed to restore the matter back to learned CIT(A) for decision of merit.
7. Learned DR has fairly agreed that learned CIT(A) has not decided the issues which were not part of rectification, on merit.
8. Considering the submissions made on behalf of the parties it is noticed that during the pendency of first appeal assessee filed a clarification letter dated 09.11.2023 before learned CIT(A), wherein it was submitted that on the condition of grant of relief of rectification of mistakes by JAO u/s. 154, the issues which were part of the rectification proceedings would only be treated infructuous if decided by JAO. However, without waiting for the rectification order and without

considering the remaining grounds on merit, learned CIT(A) has dismissed assessee's appeal as infructuous under a belief that JAO has passed rectification order in respect of all the issues. It is further noticed that the assessee has a legal right under para 5(i)(ii) of the faceless appeal scheme 2021 for having a notice for submitting its response in support of the grounds before the first appellate authority/NFAC. In the circumstances, we deem it appropriate to remit the matter back to the file of learned CIT(A) for denovo adjudication on merit after taking assessee's aforesaid details into consideration. We further direct the assessee to be diligent and cooperative in attending the hearings and making submissions before the first appellate authority for the expeditious and effective disposal of the appeal. Assessee should refrain from seeking any adjournment but for compelling and unavoidable reasons. Needless to say that learned CIT(A) shall ensure the observance of the principles of natural justice. It is made clear that we have not made any observation on the merits of the case. The appeal is thus liable to be allowed.

9. In the result, the appeal is allowed. Impugned order dated 23.02.2024 is set aside. The case is restored back to the file of the learned CIT(A) for statistical purposes.

Order pronounced on 08.08.2024.

Sd/-
(OM PRAKASH KANT)
ACCOUNTANT MEMBER

Sd/-
(SUNIL KUMAR SINGH)
JUDICIAL MEMBER

Mumbai; Dated 08/08/2024
Anandi Nambi, *Steno*

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai