

**IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "SMC" BENCH, AHMEDABAD**

BEFORE MS. SUCHITRA KAMBLE, JUDICIAL MEMBER

**ITA No. 67/Ahd/2024 & CO No.7/Ahd/2024
Assessment Year: 2012-13**

ACIT, Gandhinagar Circle, Gandhinagar	Vs.	RGVP Energy Sources, C-15, GIDC, Sector-25, Gandhinagar, Gujarat-382025 [PAN - AAKFR 3259 C]
(Appellant)		(Respondent/Cross-Objector)
Assessee by	Shri Gautam Acharya, AR	
Revenue by	Shri Sanjay Kumar, Sr DR	
Date of Hearing	06.08.2024	
Date of Pronouncement	09.08.2024	

ORDER

The Revenue is in appeal before the Tribunal against the order of the learned Commissioner of Income-Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi ("CIT(A)" in short) dated 16.11.2023 passed under Section 250 of the Income Tax Act, 1961 [hereinafter referred to as "the Act" for short] for Assessment Year (AY) 2012-13. On receipt of notice in the Revenue's appeal, the assessee has filed Cross Objection bearing CO No.7/Ahd/2024.

2. The solitary ground raised by the Revenue reads as under:-

"The Ld. CIT(A) has erred in law and on facts in quashing the reassessment order u/s 143(3) r.w.s. 147 of the IT Act made by AO."

3. The assessee is a partnership firm and filed its return of income on 30.09.2012 in ITR-5 declaring total income of Rs.18,81,550/-. Assessment under Section 143(3) of the Act was finalized on 31.03.2015, declaring total income at Rs.37,25,490/-. The Assessing Officer observed that the assessee is not eligible for deduction amounting to Rs.8,67,931/- which was claimed u/s 80IC of the Act. The case was reopened u/s 147 of the Act and notice u/s 148 of the Act was issued and served upon the assessee on 28.03.2019. In response to the notice

issued u/s 148 of the Act, the assessee filed return of income on 29.05.2019 declaring total income of Rs.21,39,350/-. Notice u/s 143(2) of the Act was issued on 06.06.2019 and reasons for reopening of the assessment were given on 07.06.2019. Statutory notices u/s 142(1) of the Act were issued, for which the assessee filed the response and submitted the details.

4. The assessee is engaged in the business of manufacturing of Solar Street Lights and other electric appliances running on solar energy. During the year under consideration, for computing the deduction u/s 80IC of the Act, it has distributed the entire expenditure in proportion ratio of the income of all the three units. By applying this method, the assessee claimed deduction of Rs.8,67,931/- u/s 80IC of the Act. However, the assessee did not submit separate Profit & Loss Account and Balance-sheet of its Uttarakhand Unit and also had not submitted Form 10CCB of the Accountant. Therefore, the Assessing Officer held that the assessee is not eligible for claiming deduction u/s 80IC and made disallowance of Rs. 8,67,931/-.

5. Being aggrieved by the assessment order, the assessee filed appeal before the CIT(A). The CIT(A) allowed the appeal of the assessee.

6. The ld. DR submitted that the CIT(A) erred in quashing the reassessment order passed u/s 143(3) r.w.s. 147 of the Act as the assessee neither complied with the conditions set out u/s 80IC of the Act for claiming deduction nor submitted Form 10CCB of the accountant. The ld. DR relied upon the assessment order.

7. The ld. AR relied upon the order of the CIT(A).

8. Heard both the parties and perused all the relevant material available on record. It is pertinent to note that the observation of the Assessing Officer that the assessee has not filed Form 10CCB of the Accountant is not justified and the

same was taken into account. Besides this, the original assessment order was passed u/s 143(3) of the Act on the very same basis and, therefore, the CIT(A) has rightly held the reassessment, on the basis of change of opinion, as invalid. Therefore, the appeal filed by the Revenue does not sustain and the same is dismissed.

9. As relates to the Cross-Objection filed by the assessee, there is a 7 days delay in filing the same, for which the assessee has filed a condonation of delay application and, therefore, the delay is condoned.

10. In the light of the observations made hereinabove, the Cross-Objection stands allowed. Hence, the Cross-Objection of the assessee is allowed.

11. In the result, the appeal of the Revenue is dismissed, whereas the Cross-Objection filed by the assessee is allowed.

Order pronounced in the open Court on 9th August, 2024.

Sd/-

(SUCHITRA KAMBLE)
Judicial Member

Ahmedabad, the 9th day of August, 2024

*BTK**

Copies to:

(1)	<i>The appellant</i>
(2)	<i>The respondent</i>
(3)	<i>CIT</i>
(4)	<i>CIT(A)</i>
(5)	<i>Departmental Representative</i>
(6)	<i>Guard File</i>

By order

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Assistant Registrar
Income Tax Appellate Tribunal
Ahmedabad benches, Ahmedabad