

IN THE INCOME TAX APPELLATE TRIBUNAL, MUMBAI BENCH 'E', MUMBAI

**BEFORE SHRI AMARJIT SINGH, HON'BLE ACCOUNTANT MEMBER
AND SHRI ANIKESH BANERJEE, HON'BLE JUDICIAL MEMBER**

**ITA No.4663/Mum/2023
Assessment Year: 2018-19**

High Volt Electricals Private Limited J 46 MIDC Tarapur Boisar, Palghar, Maharashtra-401506 PAN: AABCH 7678 H (Appellant)	vs	Ward-1, Palghar, ITO, Mumbai (Respondent)
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Present for:

Assessee by : Shri Prateek Jain
Revenue by : Shri P.D. Chougule, Addl. CIT, Sr. DR

Date of Hearing : 23.07.2024
Date of Pronouncement : 27.08.2024

ORDER

PER AMARJIT SINGH, AM:

The present appeal filed by the assessee is directed against the order dated 09.11.2023 of the Ld. Commissioner of Income Tax (Appeal), NFAC, Delhi for Assessment Year 2018-19.

2 Fact in brief is that the case of the assessee was subject to scrutiny assessment u/s 143(3) of the Act. The assessment u/s 143(3) of the Act was finalized on 08.01.2021 assessing the income upto the return income filed by the assessee of Rs. 4,69,86,700/- without making any addition. Subsequently, the assessee filed rectification u/s 154 of the Act before the assessing officer for considering the income tax rate at 25% as per turnover of the assessee instead of tax rate charged @ 30%. However, the assessing officer has rejected the rectification application filed by

the assessee stating that tax rate applicable to the assessee will be at 30% of the total income.

3. The assessee filed appeal before the ld. CIT(A). The ld. CIT(A) has also dismissed the appeal filed by the assessee.

4. Heard both the sides and also perused the material on record. The assessee has filed rectification u/s 154 of the Act to consider the tax rate @ 30% instead of tax rate 25% as the turnover of the assessee was below Rs. 50 crores as under:

<i>Particulars</i>	<i>Amount (in Rs.)</i>
<i>Sale of goods</i>	<i>50,09,90,069.00</i>
<i>Sale of services</i>	<i>1,46,54,001.00</i>
<i>Gross Total</i>	<i>51,56,44,070.00</i>
<i>Less: Excise Duty</i>	<i>5,39,13,756.00</i>
<i>Less: Service Tax</i>	<i>17,86,031.00</i>
<i>Net Sales</i>	<i>45,99,44,283.00</i>

5. We have also perused the Guidance note of the Institute of Chartered Accountants of India on tax audit under section 44AB of the Income-tax Act, 1961 filed before us wherein it is mentioned that if, however, the excise duty and /or sales tax recovered are credited separately to excise duty or sales tax account (being separate accounts) and payments to the authority are debited in the same account, they would not be included in the turnover. However, sales of scrap shown separately under the heading 'miscellaneous income' will have to be included in turnover.

6. The assessee has also filed copy of central excise duty payable and service tax payable ledger account for the period 01.04.2015 to 31.03.2016 demonstrating that it had credited the excise duty and service tax recovered separately to the respective account separately maintained and the payment made to the tax authorities were debited in the same account therefore, the same would not be included in the turnover.

7. Looking to the above facts and circumstances, we direct the assessing officer to consider the income tax rate @ 25% instead of 30% since the turnover for the F.Y. 2015-16 in the case of assessee was below Rs. 50 crores, since it had maintained separate account for payment of both the taxes in which the taxes recovered were credited before making payment to the respective tax authorities as prescribed in the guidance notes on tax audit u/s 44AB of the Act as discussed in this order. Therefore, ground of appeal of the assessee is allowed.

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

Order pronounced in the open court on 27.08.2024

Sd/-

**(ANIKESH BANERJEE)
JUDICIAL MEMBER**

Sd/-

**(AMARJIT SINGH)
ACCOUNTANT MEMBER**

Mumbai: 27.08.2024
Biswajit, Sr. P.S.

Copy to:

1. The Appellant:
2. The Respondent:
3. The CIT,
4. The DR .

//True Copy//

By Order

Assistant Registrar
ITAT, Mumbai Benches, Mumbai