

**आयकर अपीलीय अधिकरण, कोलकाता पीठ 'B', कोलकाता**  
**IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH KOLKATA**

**Before Shri Sanjay Garg, Judicial Member and Shri Sanjay Awasthi, Accountant Member**

**I.T.A. Nos.829 to 831/Kol/2024**  
**Assessment Years: 2015-16 to 2017-18**

<b>West Bengal Essential Commodities Supply Corporation Ltd.</b> <b>11A, Mirza Ghalib Street, Kolkata-700087.</b> <b>(PAN: AAACW2985M)</b>	.....	<b>Appellant</b>
<b>vs.</b>		
<b>ACIT, Circle-7(1), Kolkata.</b>	.....	<b>Respondent</b>

**Appearances by:**

Shri G. Banerjee, FCA appeared on behalf of the Appellant.

Shri P. P. Barman, Addl. CIT, Sr. DR appeared on behalf of the Respondent

Date of concluding the hearing :October 21, 2024

Date of pronouncing the order :October 21, 2024

**आदेश / ORDER**

**Per Sanjay Garg, Judicial Member :**

All the captioned appeals have been preferred by the assessee against the separate orders evenly dated 21.02.2024 of the Ld. Commissioner of Income Tax (Appeals), NFAC, Delhi [hereinafter referred to as the "Ld. CIT(A)"] for Assessment Years 2015-16 to 2017-18.

2. ITA No. 829/Kol/2024 is taken as the lead case for the purpose of narration of facts. Brief facts of the case are that the assessee is a government organisation. It did not file return of income for the year under consideration. The AO noticed from the Form 26AS that the assessee has certain taxable income during the year. He, therefore, reopened the assessment of the assessee u/s. 147 of the Act. However, in response to the notice issued u/s. 147 of the Act, assessee did not

file its return of income. The AO, therefore, proceeded to make best judgment assessment u/s. 144 of the Act and made the impugned additions. The Ld. CIT(A) confirmed the addition so made by the AO. The assessee thus, has come in appeal before us.

3. The Ld. Counsel for the assessee has submitted that, though, the assessee did not file return of income in response to notice u/s. 148 of the Act, however, the assessee had filed the required details and evidences such as Balance Sheet, accounts of the assessee and other documents and that the AO, while making the best judgment assessment, was supposed to go through the said documents. He inviting our attention to the impugned assessment order has submitted that the AO, however, had picked and chosen certain entries from Form 26AS and ignored the other entries. He has further submitted that as per audited books of account, the assessee was running into huge losses and that there was no question of making the impugned additions.

4. The Ld. DR, on the other hand, has submitted that since the assessee did not file return of income, therefore, the AO had justified in making the impugned additions.

5. We have considered the rival contentions and gone through the records. No doubt there is a default and negligence on the part of the assessee in not filing the return of income. The Ld. Counsel in this respect has explained that the assessee is a government organisation and could not file its return of income along with audited financial statement as the audit was delayed by the Govt. auditor. However, the audited financial accounts were filed before the Ld. CIT(A), whereupon a remand report was also called upon by the Ld. CIT(A). That, however, the AO as well as the Ld. CIT(A) without considering the documents

furnished by the assessee, made/confirmed the impugned additions only on the ground that the assessee did not file its return of income and that the AO was under the circumstances, justified in making the impugned additions.

6. A perusal of the order of the Ld. CIT(A) would reveal that the Ld. CIT(A) has passed his judgment mainly on the ground that the AO was justified in making the impugned addition in the best judgment assessment because of the failure of the assessee in filing the return of income. However, we note that as per the law, even no return of income was filed by the assessee, the AO still was supposed to consider the documents furnished by the assessee. Even when the assessee had filed its audited financial statement before the Ld. CIT(A) and the remand report was called upon by the Ld. CIT(A) from the AO, under such circumstances, the AO was supposed to examine the documents and give a detailed finding thereupon. Even in case of best judgment assessment u/s. 144 of the Act, the Income Tax Authorities are supposed to examine the documents on record and thereafter, to assess the income and pass a speaking order. In view of this, the impugned order of the Ld. CIT(A) is set aside and the matter is restored to the file of the AO with a direction to examine the details and evidences available on record and consider the submissions made by the assessee and thereafter to pass assessment order afresh in accordance with law. However, it is made clear that the assessee will not be entitled to such deductions, exemptions, allowances or benefits etc., which he may not be entitled to legally for want of filing of the return of income. With the above observations, the appeal of the assessee is restored to the file of the AO for de novo assessment. Appeal of the assessee is treated as allowed for statistical purposes.

8. Since the facts and issue involved in these appeals are identical to that have been discussed above in ITA No. 829/Kol/2024, therefore, our observations and finding given above will mutatis mutandis apply to these two appeals also. We order accordingly.

9. In the result, all the three appeals of the assessee stand allowed for statistical purposes.

Order is pronounced in the open court.

Sd/-  
**[Sanjay Awasthi]**  
लेखा सदस्य/Accountant Member

Sd/-  
**[Sanjay Garg]**  
न्यायिक सदस्य/Judicial Member

Dated: 21.10.2024.

*JD Sr. P.S*

*Copy of the order forwarded to:*

1. **Appellant – West Bengal Essential Commodities Supply Corporation**
2. **Respondent – ACIT, Circle-7(1), Kolkata**
3. **CIT(A), NFAC, Delhi**
4. **Pr. CIT**
5. **CIT(DR),**

BY ORDER,

Assistant Registrar  
ITAT, Kolkata