

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

Before Shri Sanjay Garg, Judicial Member and Dr. Manish Borad, Accountant Member

I.T.A. No.1064/Kol/2024  
Assessment Year: 2019-2020

**West Bengal Manufacturing Co. Pvt. Ltd.** ..... **Appellant**  
1401, Diamond Heritage, 14<sup>th</sup> Floor,  
16, Strand Road, Kolkata-700001.  
(PAN: AAACW2819A)

vs.

**DCIT, Circle-5(1), Kolkata** ..... **Respondent**

**Appearances by:**

Shri S. K. Tulsian, Advocate & Sm. Lata Goyal, ACA appeared on behalf of the Appellant.

Shri Pradip Kumar Biswas, Addl. CIT, Sr. DR, appeared on behalf of the Respondent.

Date of concluding the hearing :November 20, 2024

Date of pronouncing the order :November 21, 2024

**आदेश / ORDER**

**संजय गर्ग, न्यायिक सदस्य द्वारा/ Per Sanjay Garg, Judicial Member:**

The present appeal has been preferred by the assessee against the order dated 26.04.2024 of the Ld. Commissioner of Income Tax (Appeals), ADDL/JCIT(A)-4, Chennai (hereinafter referred to as the "Ld. CIT(A)" passed u/s. 250 of the Income-tax Act, 1961 (hereinafter referred to as the "Act") for Assessment Year (AY) 2019-2020.

2. The sole issue raised by the assessee in this appeal is against the sustenance of disallowance of deduction by the Ld. CIT(A) of Rs.1,33,70,301/- claimed by the assessee u/s. 80IE of the Act on the ground that the assessee had not uploaded the Form 10CCB by the due date i.e. 31.10.2019.

3. At the outset, the Ld. Counsel for the assessee has invited our attention to page 20 of the paper book, which is a reply to the notice

issued u/s. 143(1)(a) of the Act, wherein, CPC had made an objection that Form 10CCB has not been e-filed within due date and in response, the assessee had duly mentioned as under:

*“Our Chartered accountants tried several times to upload the Form 10CCB up to midnight till 12.00 PM of 31<sup>st</sup> October 2019 every time site showed the error selects the STATE No option shown for select the STATE. After midnight date has been changed and he could not able to upload the above form. Next day morning he could upload the Form vide acknowledgment No. 248880941011119 and 24888991011119 dated 01.11.2019. Kindly condone ONE DAY delay which was beyond our control and oblige.”*

4. A perusal of the above document, which is a part of the e-proceedings clearly reveals that the assessee tried its best to upload the requisite Form 10CCB before the expiry of the due date i.e.31.10.2019 till 12 midnight of the said date. However, due to technical glitches, the Chartered Accountant of the assessee was not able to upload the said Form 10CCB. It was uploaded in the morning with due acknowledgment of the same. Since after 12 O' clock the date changes, therefore, the date on the acknowledgment was 01.11.2019.

5. Now-a-days, we come across many cases, wherein, because of certain technical glitches or non-working or slow working of Internet or due to high traffic on the website of the Department, certain technical errors creep in because of which, even the ITRs could not be uploaded on the given date. Under the circumstances, due consideration should be given to such difficulties, as the system of online assessment is in developing stage. The Ld. Counsel for the assessee in this case has duly demonstrated that a few hours delay in uploading Form 10CCB was due to technical glitch in uploading the Form, however, the fact on the file is that the assessee had duly got audited its account in time and the requisite audit report in Form 10CCB was very much available with the assessee before the due date of filing of the same and the assessee tried

its best to upload the same by the due date. The eligible deduction to the assessee cannot be denied because of a technical difficulty, which was beyond the control of the assessee. We, therefore, do not find justification on the part of the lower authorities in denying the deduction to the assessee u/s. 80IE of the Act when, the assessee has duly explained its inability/impossibility in not uploading of the Form 10CCB by the stipulated date. Even the Hon'ble Apex Court in the case of "CIT vs. G.M. Knitting Industries (P) Ltd. & Others" Civil appeal No. 10782 of 2013 & 4048 of 2014 and in the case of M/s. Aks Alloys (P) Ltd. (Civil Appeal No. 10782 of 2013), vide a consolidated order has held that even though, necessary certificate in Form 10CCB along with the return of income has not been filed, but, the same was filed before the final order of assessment, the assessee, even in such circumstances, would be entitled for claim of deduction u/s. 80IB of the Act. The facts of the assessee's case are on much better footing. We, therefore, do not find justification on the part of lower authorities in making the impugned disallowance. The impugned disallowance made by the lower authorities is, therefore, ordered to be deleted.

6. In the result, appeal of the assessee stands allowed.

Order is pronounced in the open court on 21.11.2024

Sd/-

**[Manish Borad]**

लेखा सदस्य/Accountant Member

Sd/-

**[Sanjay Garg]**

न्यायिक सदस्य/Judicial Member

Dated: 21.11.2024.

JD

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*Copy of the order forwarded to:*

1. **Appellant – West Bengal Manufacturing Co. Pvt. Ltd.**
2. **Respondent – DCIT, Circle-5(1), Kolkata**
3. CIT(A), ADDL/JCIT-4, Chennai
4. Pr. CIT,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches