

**IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH, KOLKATA**

**SHRI SANJAY GARG, JUDICIAL MEMBER  
SHRI SANJAY AWASTHI, ACCOUNTANT MEMBER**

**I.T.A. No. 2043/Kol/2024  
Assessment Year: 2018-19**

**M/s Dwarkesh Engineering Works Pvt. Ltd.,**

7, Camac Street, Azimganj House,

3<sup>rd</sup> Floor, Kolkata - 700017

[PAN: AAACD8784B]

..... **Appellant**

**vs.**

**DCIT, Circle1(1), Kolkata,**

Aayakar Bhawan, P-7,

Chowringhee Square,

Kolkata – 700069

..... **Respondent**

**Appearances by:**

Assessee represented by

: Manoj Kataruka, A.R.

Department represented by

: Loviesh Shelly, Addl. CIT, Sr. DR

Date of concluding the hearing

: 17.12.2024

Date of pronouncing the order

: 23.12.2024

**ORDER**

**PER SANJAY AWASTHI, ACCOUNTANT MEMBER:**

1. The present appeal preferred by the assessee emanates from the order of the Ld. Commissioner of Income Tax (in short 'the Ld. CIT(A)] dated 09.09.2024, passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as the "Act") for Assessment Year 2018-19.

1.1 The appellant is a Private Limited Company engaged in the business of manufacture of alloy steel casting / stainless steel casting and also operating Wind Mills. The appellant company for AY 2018-19 had e-filed return on 29-03-2019 declaring total income of Rs.

9,90,06,750/- . The case of the appellant was selected for scrutiny under CASS and notices were issued u/s 143(2) and 142(1) of the Act. Assessment has been framed u/s 143(3) vide order 26-02-2021 on a total income of Rs. 10,00,06,750/- by making an addition of Rs. 10,00,000/- u/s 801A of the Act. Further, in the computation of the assessed income Dividend Distribution Tax Liability has been computed at Rs.41,81,167/.

1.2. Aggrieved with the said additions made in respect of disallowance of Rs. 10,00,000/- u/s 801A of the Act, and computation of Dividend Distribution Tax Liability of Rs. 41,81,167/-, the appellant is filing this appeal through following grounds of appeal:

*“1) That on the facts and in the circumstances of the case the action of the Ld. CIT(A) to uphold the action of the AO in making disallowance of Rs. 10,00,000/- u/s 801A of the Act, is without any basis is arbitrary, excessive and illegal and bad in law.*

*2) That on the facts and in the circumstances of the cases the action of the Ld. CIT(A) to uphold the action of the AO in making addition of Rs. 10,00,000/- u/s 801A of the Act, on the context that excessive expenditure has been claimed in the manufacturing business is contrary to the material evidences on record and the order passed is illegal and bad in law.*

*3) That on the fact and in the circumstances of the case the action of the AO to compute tax liability of Rs.41,81,167/- including interest of Rs.11,94,919/- on account of Dividend Distribution Tax is contrary to the material evidences on record and the tax computed is illegal, arbitrary and excessive*

*4) That the order of the Ld. CIT(A) confirming the action of the A.O. is arbitrary, excessive and illegal.*

*5) That the above grounds of appeal will be argued in details at the time of hearing and the appellant craves leaves to submit additional grounds of appeal if any and or alter, vary, modify or rectify the statement of facts and grounds of appeal at or before the time of hearing.”*

2. To put the facts in perspective, the relevant portion of the impugned order deserves to be extracted as under:

*“5.2.2 I have carefully perused the submissions of the appellant w.r.t these grounds, however I find the claim of the appellant without merit. The appellant has shown disproportionately higher expenses in its Kolkata unit which is a taxable entity in comparison with the expenses shown for wind energy business for which the appellant has claimed deduction u/s 801A (4). Such expenses*

*include interest expenses, administrative expenses, employee cost, finance cost, travelling expenses etc. Thus, the appellant has suppressed the profit in taxable entity i.e. Kolkata Unit and has shown unreasonably high profit for wind energy business at Rajasthan for which the appellant has claimed deduction u/s 801A (4). The AO has correctly disallowed an amount of Rs. 10,00,000/- from the deduction claimed u/s 801A (4). I find no infirmity in the decision of AO in disallowing an amount of Rs. 10,00,000/- from the deduction claimed u/s 801A (4). Therefore, the disallowance made by AO of Rs. 10,00,000/- u/s 801A(4) is confirmed and grounds no. 1 and 2 are dismissed.”*

3. Before us, the Ld. AR has vehemently argued that the Ld. AO has doubted the claim of expense merely on a suspicion that expenses have been suppressed to avail of a larger quantum of benefit u/s 80IA of the Act. The Ld. AR pointed out that the assessee is a company and duly complies with all the provisions of Companies Act, 2013 and of the Income Tax Act in terms of maintaining accounts, effecting statutory auditing of the same and also ensuring other statutory filings before various authorities. It has been averred that no error has been pointed out at any stage by any of the authorities in regard to either the book results or in the audited statements of accounts.

3.1 The Ld. DR on the other hand relied on the orders of authorities below.

4. We have carefully considered the averments of the Ld. DR/AR and also gone through the records. It is quite clear that the Ld. AO did not have any material to back his suspicion regarding alleged deflation of expenses on the allegation that the assessee intended to wrongly claim a higher deduction u/s 80IA of the Act. There is no document or fact available to support the Ld. AO's contention in this regard. Accordingly, we direct that the addition of Rs. 10,00,000/- be deleted.

5. Regarding Ground Nos. 3 and 4 concerning the Dividend Distribution Tax, it is felt that the ends of the justice will be met if this matter is remanded to the file of the Ld. AO for verifying from Form No. 26AS and other relevant documents as to the status of payment of the

said taxes, and thereafter, appropriately allowing credit for the same as per law.

6. In the result, the appeal filed by the assessee is partly allowed.

Order pronounced in the court on 23.12.2024

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

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

Dated: 23.12.2024.

AK, PS

*Copy of the order forwarded to:*

1. M/s Dwarkesh Engineering Works Pvt. Ltd.
2. DCIT, Circle1(1), Kolkata
3. CIT(A)-
4. CIT-
5. CIT(DR)

//True copy//

By order

Assistant Registrar, Kolkata Benches