

आयकर अपीलीय अधिकरण
कोलकाता 'C' पीठ, कोलकाता में

IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA 'C' BENCH, KOLKATA

श्री संजय गर्ग, न्यायिक सदस्य
एवं

श्री संजय अवस्थी, लेखा सदस्य
के समक्ष

Before

SRI SANJAY GARG, JUDICIAL MEMBER
&
SRI SANJAY AWASTHI, ACCOUNTANT MEMBER

I.T.A. No. 1318/KOL/2024
Assessment Year: 2022-23

ACIT, Circle-7(1), Kolkata *Appellant*
Vs.

Hi Tech Systems & Services Limited *Respondent*
White House, 5th Floor, 119, Park Street,
West Bengal-700016.
(PAN: AAACH6621F)

Appearances:

Appellant represented by : *Shri Ankur Goyal, JCIT, Sr. DR*
Respondent represented by : *Shri Siddharth Agarwal, AR*

Date of concluding the hearing : December 18, 2024

Date of pronouncing the order : January, 06, 2025

ORDER

Per Sanjay Garg, Judicial Member:

The present appeal filed by the assessee is directed against the order dated 27.03.2024 of the Commissioner of Income Tax (Appeal), Addl./JCIT(A), Kochi [hereinafter referred to as Ld. 'CIT(A)'] passed u/s. 250 of the Income Tax Act, 1961 (hereinafter referred to as the "Act") for Assessment Year (AY) 2022-23.

2. The revenue has raised the following grounds of appeal:

“1. Whether on the facts and circumstances of the case, the Ld. Addl/ JCIT(A), NFAC is justified in law deleting the addition made by the CPC. Bengaluru during the processing of return of Income u/s. 143(1) of the Act vide its intimation dated 07.08.2023 disallowing Rs.5,88,89,613/- claimed by the assessee u/s. 80IA of the Act.

2. That the appellant craves the leave to make any addition, alteration and modification of ground or grounds during the course of hearing of the appeal.”

3. Brief facts of the case are that the assessee is an entity which is eligible to claim deduction u/s. 80IA of the Act in respect of wind power plants. As per the provisions of section 80IA(7) of the Act, the assessee was supposed to get its accounts audited and furnish the audit report in form 10CCB on or before specified date as referred to in sec. 44AB of the Act. As per the relevant provisions of sec. 44AB of the Act, the specified date would mean the date, one month prior to the date of furnishing of the return of income u/s. 139(1) of the Act. In this case, the assessee filed return of income on 07.11.2022 which was within the due date i.e. upto 07.11.2022 as extended by the CBDT vide Circular No. 20/2022 dated 26.10.2022. The Tax Audit Report in Form 10CCB was filed by the assessee on 11.10.2022 which was thus, with the delay of four days as the specified date as per section 44AB would fall on 07.10.2022. The CPC while processing the return u/s. 143(1) of the Act, denied the claim of deduction to the assessee u/s. 80IA of the Act invoking the provisions of section 80IA(7) of the Act.

4. In appeal, the Ld. CIT(A), however, deleted the addition so made by the AO, observing that the furnishing of Form 10CCB on or before specified date was not mandatory rather the same was directory as was held by the various Hon’ble High Courts of the country and coordinate benches of the ITAT. The relevant part of the order of the Ld. CIT(A) is reproduced as under:

“OBSERVATION AND DECISION:

After going through the submission and supporting documents filed by assessee along with reconciliations filed in support of its claim,

the grounds raised by the assessee in the present appeal is decided ground wise as under: 5.1. Ground Nos. 1 and 2

5.1.1. In these grounds, the assessee has challenged the action of the AO in assessing the income of the assessee at Rs.26,07,24,940/- by denying the claim of exemption u/s. 80IA to the tune of Rs.5,88,89,613/-.

I have carefully considered the submissions made by the assessee and have also gone through the facts of the case. The CPC-Bengaluru while processing the return of the assessee company u/s. 143(1) has denied the entire claim of deduction u/s. 80IA of Rs.5,88,89,613/- on the ground that the Form 10CCB is not filed within the due date for the AY 2022-23.

5.1.2. The due date u/s. 139(1) for filing the return of income for the AY 2022-2023 which falls on 31.10.2022 was extended to 07.11.2022 (Circular No. 20 of 2022 dated 26.10.2022). the assessee filed the return of income for the AY 2022-2023 on 07.11.2022 declaring total income of Rs.20,18,31,510/-. As per the provisions of section 80-IA(7) read with Rule 18BBB, the assessee was required to file an audit report in Form No. 10CCB on or before the specified date referred to in section 44AB. The Explanation to section 44AB explains the specified date to be one month prior to the due date for furnishing the return of income u/s. 139(1). Hence the audit report in Form No. 10CCB should have been filed by the assessee on or before 07.10.2022. However, the same was filed by the assessee only on 11.10.2022.

5.1.3. It is the contention of assessee that there are various judicial precedents which have held that merely for non-filing of Form No. 10CCB before the due date, department cannot deny the claim of deduction made by the assessee. It is submitted by assessee that the instant issue is purely debatable in nature and the denial of the claim of deduction u/s. 80-IA of Rs.5,88,89,613/- was beyond the scope of the adjustments provided in section 143(1)(a) of the Income Tax Act.

5.1.4. The following adjustments are provided in section 143(1)(a):

- (i) any arithmetical error in the return;
- (ii) an incorrect claim, if such incorrect claim is apparent from any information in the return;
- (iii) disallowance of loss claimed, if return of the previous year for which set off of loss is claimed was furnished beyond the due date specified under sub-section (1) of section 139;
- (iv) disallowance of expenditure or increase in income indicated in the audit report but not taken into account in computing the total income the return;

(v) disallowance of deduction claimed under section 10AA or under any of the provisions of Chapter VI-A under the heading “C-Deductions in respect of certain incomes”, if the return is furnished beyond the due date specified under sub-section (1) of section 139; or

(vi) addition of income appearing in form 26AS or Form 16A or Form 16 which has not been included in computing the total income in the return.

5.1.5. From a reading of the above adjustments, it can be seen that the disallowance of the claim of deduction u/s. 80-IA could be covered only under sub-clause (ii) or sub-clause (v). The Explanation (a) to section 143(1)(a) provides that “an incorrect claim, if such incorrect claim is apparent from any information in the return” shall mean a claim, on the basis of an entry, in the return –

1. of an item, which is inconsistent with another entry of the same or some other item in such return;

2. in respect of which the information required to be furnished under this Act to substantiate such entry has not been so furnished; or

3. in respect of a deduction, where such deduction exceeds specified statutory limit which may have been expressed as monetary amount or percentage or ratio or fraction.

5.1.6. From the reading of the Explanation (a) to section 143(1)(a), it is clear that the deduction u/s. 80-IA cannot be denied under sub-clause (ii) of section 143(1)(a) on the ground of non-filing of form No. 10CCB on or before the specified date. Further, the deduction u/s. 80-IA can be denied under sub clause (v) of section 143(1)(a) only if the return of income is filed beyond the due date specified u/s. 139(1). However, the return of income for AY 2022-23 has been filed by the assessee before the due date specified u/s. 139(1). Even the Form No. 10CCB has been filed on 11.10.2022 well before the filing of the return of income on 07.11.2022, although the same was required to be filed on or before 07.10.2022.

5.1.7. In the light of the discussion in the preceding paragraphs and the submissions and judicial pronouncements relied upon by the assessee, the denial of the claim of deduction u/s. 80-IA of Rs.5,77,89,613/- is held to be outside the scope of the provisions of section 143(1)(a).”

5. We note that the issue is squarely covered by the various decisions of the Hon’ble High Court as well as Coordinate Benches of this Tribunal. Reliance in this respect can be placed on the recent decision of the Pune Bench of the Tribunal in the case of Desai Infra Projects (I) Private Limited Vs. Commissioner of Income Tax (Appeals), Pune, ITA No. 1852/Pune/2024 order

dated 30.12.2024, wherein, the Coordinate Bench of the Tribunal in almost identical facts and circumstances and in relation to the assessment year 2022-23 itself, wherein the denial of deduction was made by the CPC while processing the return u/s. 143(1) of the Act itself. The Coordinate Bench, while deliberating upon the relevant provisions of the Act and also placing reliance on the various case laws, has held that since the assessee has duly filed the Form 10CCB much before the date when the return of the assessee was processed by the CPC u/s. 143(1) of the Act and the assessee was also claiming and was allowed deduction u/s. 80IA in the earlier assessment years then, there was no justification on the part of the CPC to deny the deduction for small delay in filing the audit report in Form 10CCB. The relevant part of the order of the Coordinate Bench of the Tribunal in the case of Desai Infra Projects (I) Private Limited (supra) is reproduced as under:

“6. We have heard rival submissions made by both the sides and perused the material available on record. We find the assessee in its return of income had claimed deduction of Rs.3,42,22,760/- u/sec.80IA(4)(i) of the Act, which was denied by the CPC in the intimation passed u/sec.143(1) of the Act. We find the Ld. CIT(A) rejected the arguments advanced by the assessee and dismissed the appeal, the reasons of which, have already reproduced in the preceding paragraphs. It is the submission of the Learned Counsel for the Assessee that the CPC does not have any power to deny the claim of deduction u/sec.80IA(4) while processing the return u/sec.143(1). It is also his argument that since the assessee has filed the audit report before the processing of the return and since filing of audit report is directory and not mandatory, therefore, the deduction should not have been denied.

6.1. We find some force in the above arguments of the Learned Counsel for the Assessee. Admittedly, in the instant case, the assessee has filed audit report in Form-10CCB on 31.10.2022 and the CPC has processed the return of income on 16.03.2023. It is also an admitted fact that as per the intimation u/sec.143(1), the extended due date for filing of the return for the assessment year 2022-2023 is 07.11.2022.

6.2. We find an identical issue had come-up before the Chennai Bench of the Tribunal in the case of Natesan Precision Components Private Limited, Chennai vs. DCIT in ITA.No.1397/Chny/2024, order dated 09.08.2024 for the assessment year 2018-2019, wherein it has been held that a claim of deduction u/sec.80IA(4) cannot be denied merely because the audit report in Form-10CCB was filed belatedly i.e., not along with the return of income. The relevant observations of the Tribunal are as under :

“8. We have heard both the parties and perused the material available on record. We find that this was the 8th year of claiming deduction u/s.80IA of the Act and in earlier year assessee was granted such

deduction; and in the relevant AY, the CPC denied the deduction only on the ground that Audit Report/ Form No.10CCB was belatedly e-filed i.e, not along with the return of income. On appeal, the Ld. CIT(A) has confirmed the action of the CPC by holding that the assessee ought to have filed Form No.10CCB on the due date, which requirement of law, we note came w.e.f. 01.04.2020 and is not applicable for AY 2017-18. Having said so, we note that the assessee had e-filed Form No.10CCB before the CPC had processed the return of income u/s 143(1) of the Act; and therefore, the deduction claimed ought to have been allowed as held by the Hon'ble Supreme Court in the case of GM Knitting Industries (P.) Ltd., (supra), wherein the Apex Court had an occasion to examine the action of Bombay High Court holding that if Form 3AA is filed before the assessment proceedings culminated, then additional depreciation shall be allowed and such a claim should not be denied only because assessee did not furnish Form 3AA along with return of income. And the Hon'ble Apex Court, affirmed the action of the Hon'ble High Court of Bombay as well as tagged along matter wherein Revenue challenged the action of the Hon'ble Madras High Court in AKS Alloys Pvt. Ltd (supra) and the Civil Appeal of department was dismissed, which means the decision of the Hon'ble Madras High Court has been affirmed by Hon'ble Supreme Court, and is binding precedent that if assessee had filed the Form 10CCB before the assessment proceedings culminate, then the deduction claimed u/s.80IB ought not to be denied on the reason that assessee did not file Form 10CCB along with Return of Income (ROI). We also note the Hon'ble Supreme Court's decision in M/s. Wipro Ltd. (supra) was in the context of that assessee's [Wipro] claim of exemption under Chapter III, in contra-distinction to the claim raised by the present assessee under Chapter VI-A. And it would be gainful to reproduce the Hon'ble Supreme Court's observation in M/s. Wipro Ltd., wherein in the distinction in the claim made for exemption under Chapter 17 ITA.No.1852/PUN./2024 III and deduction claimed under Chapter VI was noted as under :

“11. Now so far as the reliance placed upon the decision of this Court in the case of G.M. Knitting Industries Pvt. Ltd. (supra), relied upon by the learned counsel appearing on behalf of the assessee is concerned, Section 10B (8) is an exemption provision which cannot be compared with claiming an additional depreciation under section 32(1) (ii-a) of the Act. As per the settled position of law, an assessee claiming exemption has to strictly and literally comply with the exemption provisions. Therefore, the said decision shall not be applicable to the facts of the case on hand, while considering the exemption provisions. Even otherwise, Chapter III and Chapter VIA of the Act operate in different realms and principles of Chapter III, which deals with "incomes which do not Form a part of total income", cannot be equated with mechanism provided for deductions in Chapter VIA, which deals with "deductions to made in computing total income". Therefore, none of the decisions which are relied upon on behalf of the assessee on interpretation of Chapter VIA shall be applicable while considering the claim under Section 10B (8) of the IT Act. [emphasis given by us]”

9. In the light of the discussion, and taking note that assessee had e-filed the audit report in Form 10CCB on 30.03.2019 and processing by CPC u/s.143(1) of the Act took place only on 12.01.2020, which is an event much after the assessee had e-filed the Form 10CCB, therefore, the claim of deduction ought to have been granted especially when assessee was granted such a deduction for the earlier 5 years. Therefore, we set-aside the impugned order of Ld. CIT(A)/JCIT(A) and direct the AO to allow the claim of deduction u/s.80IA of the Act.

10. In the result, appeal filed by the assessee is allowed.”

6.3. We find the Kolkata Bench of the Tribunal in the case of Tarasafe International (P.) Ltd., vs. DDIT, CPC (supra) after considering the decision of the Hon'ble Supreme Court in the case of Pr. CIT vs. Wipro Ltd., (supra), has held that when the audit report is filed before the final order of assessment, the assessee was entitled to claim deduction under section 80JJA. The relevant observations of the Kolkata Bench of the Tribunal from para-2 onwards read as under :

“2. The short issue involved in this appeal is as to whether the late filing of audit report in Form 10DA would disentitle the assessee from claiming deduction u/s.80JJA of the Act, when the said Form 100A was available to the Ld. AO at the time of assessment proceedings. The assessee in this case filed the Form 100A on 27.10.2023 as against the due date of 30.09.2023 but, the same was available to the AO at the time of processing the return of income as the notice u/s. 143(1)(a) of the Act was issued by the CPC to the assessee on 23.11.2023.

3. The issue is squarely covered by the decision of Hon'ble Supreme Court in the case of CIT V. G. M Knitting bahotries (P) Ltd. (2016/ 12 SCC 272/[2016] 71 taxmann.com 35/376 ITR 456 (SC), wherein the Hon'ble Supreme Court has held that, even though it is necessary to file certificate in Form 10CCB along with the return of income, but even if the same has not been filed with the return of income, but the same was filed before the final order of assessment was made, the assessee was entitled to claim deduction u/s. 80-IB of the Act.

4. So far as the reliance of the Id. DR on the another decision of the Hon'ble Supreme Court in the case of CIT v. Wipro Lid 120221 140 taxmann.com 223/288 Tasman 491/446 ITR I (SC) is concerned, it is to be observed that the said case is relating to the claim of exemption u/s. 10B falling under Chapter III of the I.T. Act. However, the claim of the assessee in the case in hand is u/s. 80JJA of the Act under Chapter VIA of the Act. The Hon'ble Supreme Court in para 11 of the judgment in the case of Wipro Lid (supra) has clarified the position that the exemption provisions are to be strictly adhered to whereas the decision of the Hon'ble Supreme Court in the case of G. M. Knitting Industries Pvt. Ltd. (supra) is relating to deduction provisions u/s.VA of the Act the relevant para 11 of the order of the Hon'ble Supreme Court in the case of Wipro Lad. (supra) is reproduced below :

"11. Now so far as the reliance placed upon the decision of this court in the case of G. M. Knitting Industries Pvt. Ltd. (supra), relied upon by the learned counsel appearing on behalf of the assessee is concerned, section 10B(8) is an exemption provision which cannot be compared with claiming an additional depreciation under section 32(1)(ii-a) of the Act. As per the settled position of law, an assessee claiming exemption has to strictly and literally comply with the exemption provisions. Therefore, the said decision shall not be applicable to the facts of the case on hand, while considering the exemption provisions. Even otherwise, Chapter III and Chapter VIA of the Act operate in different realms and principles of Chapter III, which deals with "income which do not Form a part of total income", cannot be equated with mechanism provided for deductions in Chapter VIA, which deals with "deductions to be made in computing total income". Therefore, none of the decisions which are relied upon on behalf of the assessee on interpretation of Chapter VIA shall be applicable while considering the claim under section 10B(8) of the I.T. Act."

In view of this, the issue is squarely covered in favour of the assessee by the decision of the Hon'ble Supreme Court in the case of G. M. Knitting Industries Pvt. Ltd. (supra) the impugned order of the Ld. CIT(A) is, therefore, set aside and the AO is directed to grant deduction to the assessee u/s. 80JJAA of the Act as claimed. The appeal of the assessee stands allowed.

5. In the result, the appeal of the assessee stands allowed."

6.4. Since the assessee in the instant case has admittedly filed the audit report in Form-10CCB prior to the processing of the return, therefore, respectfully following the decisions cited (supra), we are of the considered opinion that assessee cannot be denied deduction u/sec.80IA(4) of the Act.

Accordingly, the order of the Ld. CIT(A) is reversed and the grounds raised by the assessee are allowed.

7. In the result, appeal of the assessee is allowed."

6. Reliance in this respect can also be placed on the decision of the ITAT, Delhi Bench in the case of Sanjay Kukreja Vs. ACIT, ITA No. 652/Del/2023 dated 30.01.2024 (AY 2019-20), wherein the coordinate bench of the Tribunal, while relying upon the various case laws, has held that the filing of the Form 10CCB on or before the specified date was only directory and not mandatory. The relevant part of the order of the coordinate Bench of ITAT, Delhi in the case of S. Kukreja (supra) is reproduced as under:

“5. Heard rival submissions. The only issue is to be decided is as to whether the Form 10CCB is mandatorily to be filed along with the return or the due date specified u/s 139(1) of the Act for claiming deduction u/s 80IA of the Act. We observe that the Hon’ble Delhi High Court in the case of CIT Vs. Contimeters Electricals Pvt. Ltd. (supra) held that the requirement of filing the audit report along with the return is not mandatory but directory and that if the audit report is filed at any time before framing of assessment the requirement of section 80IA(7) would be met observing as under:

“According to the Commissioner of Income Tax since no audit report, duly verified and signed in the prescribed Form no.10CCB under Rule 18BBB had been furnished along with the return, the condition for claiming deduction had not been satisfied and, therefore, the action of the Assessing Officer in allowing rebate u/s 80-IA was erroneous and prejudicial to the interest of the Revenue.

After issuance of the notice the Commissioner of Income Tax passed the order dated 29.03.2007 whereby he held that he was fully satisfied that the assessment which had been completed by the Assessing Officer was prejudicial to the interest of the Revenue and that it was erroneous in as much as the assessee had not satisfied the conditions laid down u/s 80-IA and consequently the deduction under that section for the sum of Rs.14,27,351/- had been wrongly allowed. The CIT(A), therefore, cancelled the assessment which had been earlier framed and directed the AO to complete the assessment as per law, in terms of the directions given in the said order.

Being aggrieved by the said order, the assessee preferred an appeal before the Tribunal which was allowed by the Tribunal by virtue of the impugned order. The Tribunal took the view that the provisions of section 80IA(7) with regard to filing of the audit report along with the return were not mandatory and were merely directory. In coming to such conclusion, the Tribunal referred to the decisions of the Gujarat High Court in CIT vs. Gujarat Oil & Allied Industries, 201 ITR 325 (Guj.). In that decision the provisions of Section 80J(6A) were considered. The wording of Section 80J(6A) is similar to that of section 80-IA(7) which is in issue in the present appeal. The Gujarat High Court took the view that the word ‘shall’ which occurs in section 80J(6A) be read as ‘may’ and that the requirement of filing of an audit report along with the return was only to be taken as directory in nature. The Gujarat High Court took the view that in case the audit report is submitted at any time before the framing of the assessment, there would be substantial compliance with the provisions of Section 80J(6A).

The Tribunal also relied on the decision of the Madras High Court in CIT vs. A.N. Arunachalam, 208 ITR 481 (Mad.), which, again, while considering the provisions of Section 80J(6A), took the same view as that of the Gujarat High Court.

We notice that there are other decisions of other Courts taking the same view. The decisions being, CIT vs. Shivanand Electricals (1994) 209 ITR 63 (Bombay); Zenith Processing Mills vs. CIT (1996) 219 ITR 721 (Guj.); Cit vs. Jayant Patel (2001) 248 ITR 199 (Mad.) and CIT vs. Mahalaxmi Rice Factory (2007) 294 ITR 631 (P&H).

In view of this long line on decisions of various High Courts in considering the provisions of Section 80J(6A) which are similar to the provisions of Section 80IA(7), we feel that the Tribunal has arrived at the correct conclusion that the requirement of filing the audit report along with the return is not mandatory but directory and that if the audit report is filed at any time before the framing of the assessment, the requirement of section 80IA(7) would be met.”

6. We find that similar view has been taken by the Hon’ble Madras High Court in the case of CIT Vs. AKS Alloys Pvt. Ltd. (supra), wherein it has been held as under:

“5. In so far as it relates to the substantial question of law (1) is concerned, namely, whether the filing of audit report in Form 10CCB is mandatory, it is well settled by a number of judicial precedents that before the assessment is completed, the declaration could be filed. In fact, the said issue came to be decided by the Karnataka High Court in the case in CIT v. ACE Multitaxes Systems (P.) LTD. [2009] 317 ITR 207 (Kar.), wherein it was held that when a relief is sought for under Section 80IB of the Act, there is no obligation on the part of the assessee to file return accompanied by the audit report, thereby, holding that the same is not mandatory. Therefore, it is clear that before the assessment is completed if such report is filed, no fault could be found against the assessee. That was also the view of the Delhi High Court in the case in CIT v. Contimeters Electricals (P.) Ltd. [2009] 317 ITR 249/ 178 Taxman 422 (Delhi), wherein the Delhi High Court, by following the judgements of the Madras High Court in CIT v. A.N. Arunachalam [1994] 208 ITR 481 / 75 Taxman 529 and in CIT v. Jayant Patel [2001] 248 ITR 199/ 117 Taxman 707 (Mad.) held that the filing of audit report along with the return was not mandatory but directory and that if the audit report was filed at any time before the framing of the assessment, the requirement of the provisions of the Act should be held to have been met.

6. That is also the consistent view of the other High Courts, including the High Court of Bombay in CIT v. Shivanand Electronics [1994] 209 ITR 63 / 75 Taxman 93 (Bom.), apart from Gujarat High Court in Zenith Processing Mills v. CIT [1996] 219 ITR 721 (Guj.) and Punjab and Haryana High Court in CIT v. Maholaxmi Rice Factory [2007] 294 ITR 631/ 1.63 Taxman 565 (Punj. & Har).

7. The Calcutta High Court in the case in the CIT v. Berger Paints (India) Ltd. [2002] 254 ITR 503/r20031 126 Taxman 435 (Cal.) has also concurred with the said view which was followed by the Tribunal in this case.

8. Mr. T. Ravikumar, the learned counsel for the appellant is not able to produce any other judgement contrary to the above said views consistently taken.”

9. In the light of the above, by virtue of hierarchy of judgements which are against the Revenue, the substantial question of law (1) would not arise at all for consideration.”

7. Similar view has been taken by the Hon'ble Allahabad High Court in the case of PCIT vs. Surya Merchands Ltd. 387 ITR 105 and the Hon'ble High Court of Uttrakhand in the case of CIT Vs. Sanjay Kumar Bansal 35 taxmann.com 514, and Honb'ble Karnataka High Court in the case of CIT vs. ACE Multi Taxes Systems Pvt. Ltd. 317 ITR 207. The ratios of the above decision squarely applying to the facts of the case, we hold that filing of audit report in Form 10CCB before the due date for filing of return of income u/s 139(1) is only directory and not mandatory for the year under consideration. Thus, we direct the AO to allow deduction claimed u/s 80IA of the Act. Grounds raised by the assessee are allowed. 8. In the result, appeal of the assessee is allowed.

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

7. The issue is squarely covered in favour of the assessee by various decisions of the Hon'ble High Court as well as the decision of the Tribunal as referred to in the above cited decisions. We, therefore, find no infirmity in the order of the Ld. CIT(A) and the same is hereby upheld.

8. In the result, the appeal of the revenue stands dismissed.

Order pronounced in the open Court on 6th January, 2025

Sd/-

Sd/-

[Sanjay Awasthi]
Accountant Member

[Sanjay Garg]
Judicial Member

Dated: 06. 01. 2025

Jd., Sr.P.S)

Copy of the order forwarded to:

1. **Appellant – ACIT, Circle-7(1), Kolkata**
2. **Respondent – Hitech Systems & Services Ltd.**
3. CIT(A), Addl/JCIT(A), Kochi.
4. Pr. CIT-
5. CIT(DR), Kolkata Benches, Kolkata.

// True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata