

IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH KOLKATA

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

**I.T.A. No. 1793/Kol/2024
Assessment Year: 2023-24**

Teddy Toy Private Limited,
45B/1F, Manick Banerjee Sarani,
Regent Park, Kolkata - 700040
[PAN: AAFCT7949B]

..... **Appellant**
vs.

ITO, Ward-8(1), Kolkata,
P-7, Chowringhee Square,
Kolkata – 700069

..... **Respondent**

Appearances by:

Assessee represented by : Rip Das, AR

Department represented by : Bonnine Debbarma, Addl, CIT DR

Date of concluding the hearing : 09.12.2024

Date of pronouncing the order : 10.12.2024

ORDER

PER SANJAY AWASTHI, ACCOUNTANT MEMBER:

1. The present appeal emanates from the order u/s 250 of the Income Tax Act, 1961 (hereinafter 'the Act') dated 26.06.2024, passed with respect to an addition of Rs. 31,27,346/- claimed as a deduction u/s 80JJAA of the Act. This deduction was apparently claimed u/s 80JJAA and not u/s 80IAC of the Act, which would have been due to the assessee. This alleged oversight resulted in the adjustment/addition u/s 143(1) of the Act.

1.1 Before the Ld. CIT(A), the assessee submitted that due to an oversight claim u/s 80IJJAA of the Act was tendered instead of u/s 80IAC of the Act. However, the Ld. CIT(A) found that in clause 33 of the audit report (Form 3CD) the claiming of deduction u/s 80JJAA of the Act was mentioned. Also, the procedural formalities pertaining to any claim u/s

80IAC of the Act were apparently not fulfilled. He accordingly proceeded to confirm the action of the Ld. AO.

2. Aggrieved with this action, the appellant is in appeal before the ITAT through the following grounds of appeal:

“1. That the Appeal Order passed u/s 250 of the Income Tax Act, 1961 by the Learned Commissioner of Income Tax (Appeals), Chandigarh is unlawful, unwarranted, against natural justice and bad in law.

2. Your Appellant submits that disallowance of the claim of deduction from the Gross Total Income u/s 80JJAA (wrong Section chosen instead of section 80IAC) of the Income Tax Act, 1961 be directed to be allowed. [Relief claimed - deletion of arbitrary disallowance of the deduction claimed u/s 80JJAA (wrong section chosen instead of u/s 80IAC) for Rs. 31,27,346/-.]

3. That your appellant craves leave to urge, to add, to alter, to amend or to adduce further grounds of appeal on or before the date of appeal hearing.”

2.1 Before us, the Ld. AR claimed that due to a typographical error the claim of deduction u/s 80IAC of the Act could not be done. It was also claimed that the Ld. CIT(A) did not consider the documents and submissions filed before him and merely disallowed the claim on the reasoning that the appellant never claimed for any deduction under the said section and also did not fulfil the requisite procedural formalities for the same.

2.2 The Ld. DR relied of the order of Ld. CIT(A).

3. We have considered the arguments and gone through the documents before us. It is a trite position of law that the correct income of any assessee should be assessed and he should not be unnecessary penalised for any inadvertent error. It is also clear that Chapter VI-A of the Act contains beneficial provisions which are intended to promote commercial activity in line with the Government’s thrust areas. Therefore, such deductions, in case the assessee is due for the same, should be invariably allowed. Considering the facts and circumstances of this case, we deem it fit to remand this matter back to the file of the Ld. CIT(A) for considering the claim of the appellant for deduction u/s 80IAC of the Act and granting

the same in case the assessee fulfils the stipulated requirements for such a claim.

4. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the court on 10.12.2024

Sd/-

[Sanjay Garg]
Judicial Member

Sd/-

[Sanjay Awasthi]
Accountant Member

Dated: 10.12.2024.
AK, PS

Copy of the order forwarded to:

1. Teddy Toy Private Limited
2. ITO, Ward-8(1), Kolkata
3. CIT(A)-
4. CIT-
5. CIT(DR)

//True copy//

By order

Assistant Registrar, Kolkata Benches

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