

आयकर अपीलीय अधिकरण, कोलकाता पीठ "ए", कोलकाता

IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH: KOLKATA

श्री राजेश कुमार, लेखा सटस्य एवं श्री प्रदीप कुमार चौबे, न्यायिक सदस्य के समक्ष
[Before Shri Rajesh Kumar, Accountant Member & Shri Pradip Kumar Choubey, Judicial Member]

I.T.A. No. 1586/Kol/2024
Assessment Year: 2010-11

Shri Panchmukhi Minerals Company Pvt. Ltd. (PAN: AAHCS 9673 H)	Vs.	DCIT, Circle-7(1), Kolkata (formerly Circle-9(2), Kolkata)
Appellant / (अपीलार्थी)		Respondent / प्रत्यर्थी

Date of Hearing / सुनवाई की तिथि	05.02.2025
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	25.02.2025
For the assessee / निर्धारिती की ओर से	Shri A. K. Tulsian, FCA
For the revenue / राजस्व की ओर से	Shri Sailen Samaddar, Addl. CIT, Sr. DR

ORDER / आदेश

Per Pradip Kumar Choubey, JM:

This is the appeal preferred by the assessee against order of Commissioner of Income Tax (Appeal)-NFAC, Delhi (hereinafter referred to as the Ld. CIT(A)] dated 29.05.2024 for AY 2010-11.

2. The Ld. Counsel for the assessee at the time of argument has submitted that the assessee is availing the VSVS Scheme and has filed an application in this regard. The

Tax payable as per scheme in the case of the assessee company was fully paid and assessee is awaiting Form No. 5 from ACIT. The Ld. Counsel further submits that while making the payment for tax issued under VSVS Scheme, 2020. The assessee inadvertently made payment for AY 2010-11 into 2012-13 vice-versa. It has further been argued that the Ld. CIT(A) grossly erred in passing the order dated 29.05.2024 on merit without considering the merit form no. 26AS of both the years stand rectified as on date and form no. 5 under VSVS Scheme is pending.

3. Ld. D.R did not raise any objection.

4. Upon hearing the submission of counsel of respective parties, we find that the assessee has already availed VSVS scheme and he filed an application in this regard. Assessee filed following papers before us:

i) Letter requesting issuance of Form 5 under VSV, 2020 dated 23.10.2025 to PCIT, CCIT, JCIT and AO.

ii) Letter requesting issuance of Form 5 under VSV, 2020 dated 12.09.2024 & 05.08.2024 . (Stated as Annexure 1 in letter dated 23.10.2025)

iii) Form 1 & 2 for AY 2010-11 dated 29.12.2020

iv) Form 3 for the AY 2010-11 dated 06.01.2021

v) Copy of Tax Payment Challan for the AY 2010-11 dated 31.03.2021

vi) Form 4 for AY 2010-11 dated 03.08.2023

vii) Form 26AS for AY 2010-11 evidencing rectified challan payments for the year

viii) Form 1 & 2 for the AY 2012-13 dated 29.12.2020

ix) Form 3 for the AY 2012-13 dated 06.01.2021

x) Copy of Tax payment Challan for the AY 2012-13 dated 31.03.2021

xi) Form 4 for the AY 2012-13 dated 03.08.2023

xii) Form 26AS for the AY 2012-13 evidencing rectified challan payments for the year

xiii) Copy of letter requesting withdrawals of appeal as assessee opted VSV, 2020 for the AY 2010-11 dated 03.05.2024, 07.03.2024, 16.11.2023, 04.08.2023, 22.04.2021 & 01.04.2021

xiv) Copy of Indemnity bond for the AY 2010-11 and 2012-13 along with a forwarding letter to the AO dated 22.06.2022.

Going over the facts of the case and aforesaid documents we find that order passed by the CIT(A) is erroneous as the CIT(A) without considering the fact that in the present case Form 26AS of both the years stands rectified as on date and the Form No. 5 under VSVs is pending. Keeping in view the above facts, we find any merit in the appeal, accordingly order passed by the CIT(A) is here by set aside.

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

Order is pronounced in the open court on 25th February, 2025

Sd/-

Sd/-

(Rajesh Kumar/राजेश कुमार)

(Pradip Kumar Choubey /प्रदीप कुमार चौबे)

Accountant Member/लेखा सदस्य

Judicial Member/न्यायिक सदस्य

Dated: 25th February, 2025

SM, Sr. PS

Copy of the order forwarded to:

1. Appellant- Sri Panchmukhi Minerals company Pvt. Ltd. (amalgamated with M/s Sendoz Impex Pvt. Ltd.), 634, Marshall House, 33/1, N. S. Road, Kolkata-700001
2. Respondent – DCIT, Circle-7(1),Kolkata (formerly Circle-9(2), Kolkata)
3. Ld. CIT(A)-NFAC, Delhi
4. Ld. Pr. CIT- , Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata