

IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH KOLKATA
BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER &
SHRI RAKESH MISHRA, ACCOUNTANT MEMBER

ITA Nos.2347 & 2348/Kol/2024
Assessment Years: 2019-20 & 2017-18

West Bengal Power Development Corporation Ltd. Bidyut Unnayan Bhaban, Plot No. 3/C, Block LA, Sector-III, Salt Lake City, Kolkata-700106.	Vs.	ADIT, CPC, Bengaluru
(Appellant)		(Respondent)

Present for:

Appellant by : N o n e
Respondent by : Shri Raja Sengupta, CIT, DR

Date of Hearing : 28.04.2025
Date of Pronouncement : 28.04.2025

ORDER

Per Bench :

Both the captioned appeals by the assessee are against the separate orders of the Ld. Commissioner of Income Tax (Appeal), Addl/JCIT(A)-7, Mumbai [hereinafter referred to as "the Ld. CIT(A)"] vide order nos. ITBA/NFAC/S/250/2024-25/1068976348(1) & ITBA/NFAC/S/250/2024-25/1068975401(1) both dated 23.09.2024 passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as "the Act") for AYs 2019-20 and 2017-18 respectively. Since grounds of appeal are identical and facts are common except variance in amount, we dispose of both these appeals by this consolidated order for the sake of convenience.

2. None represented on behalf of the assessee and Shri Raja Sengupta, CIT, DR appeared on behalf of the revenue.

3. The assessee has raised the following grounds of appeal for AY 2348/Kol/2024 :

“1(a) On the facts and in the circumstances of the case and in law, the Ld. CIT(Appeals) is not justified in not condoning the delay in filing of the appeal by the appellant in spite of the fact that the appellant was prevented by reasonable and sufficient cause in delay filing of the appeal.

1(b) On the facts and in the circumstances of the case and in law, the Ld. CIT(Appeals) consequently erred in dismissing the appeal of the appellant and upholding the intimation passed by the CPC, Bangalore u/s.143(1) of the Act.

2. That, on the facts and in the circumstances of the case, the Ld. AO erred in determining the total loss under the normal provisions of the Act at Rs. 4,47,20,61,108 instead of loss of Rs.4,95,32,02,982 determined by the Appellant in the return of income filed on 18 October 2017.

3. That, on the facts and in the circumstances of the case and in law, the Ld. Assessing Officer erred in disallowing an amount of Rs.44,11,05,589/- under section 43B of the Act while computing the total income of the Appellant on account of non-payment of liability towards pension fund even though the same has not been claimed as an expenditure by the Appellant and already offered to tax in its Return of income.

4. That, on the facts and in the circumstances of the case and in law, the Ld. CIT(Appeals) erred in not allowing the revised computation of income filed by the Appellant during the course of Appellate proceedings.

5. The above grounds of appeal are without prejudice to each other. Further, the Appellant craves leave to add, alter, vary, omit, substitute or amend the above grounds of appeal and to submit such statements, documents and papers as may be considered necessary at any time before or at the time of hearing, of the appeal, so as to enable Your Honours to decide the matter in accordance with the law.”

4. The Ld. CIT(A) has dismissed both the appeals of the assessee without condoning the delay of 1029 days for the AY 2019-20 in ITA No. 2347/Kol/2024 and 1519 days for the AY 2017-18 in ITA No. 2348/Kol/2024. It is also noticed that the assessee has not represented before the Ld. CIT(A) though the assessee has given the reasons for the delay even represented on behalf of the assessee. The Ld. CIT, DR has vehemently supported the order of the Ld. CIT(A). It was the submission that being a Government organisation the assessee had a duty to comply with the laws.

5. We have considered the submissions of the Ld. DR. We have also perused the orders of the lower authorities. The fact shows that the assessee has given a plausible reason for the delay in filing of the appeal and this reason has not been found to be false. Consequently, we condone the delay in filing both the appeals before the Ld. CIT(A). We, restore the issues to the file of the Ld. CIT(A) for adjudication on merits after granting the assessee adequate opportunity of being heard.

6. In the result, both the appeals of the assessee are partly allowed for statistical purposes.

Sd/-

(Rakesh Mishra)
Accountant Member)

Sd/-

(George Mathan)
Judicial Member

Dated: 28th April, 2025

JD, Sr. P.S.

Copy to:

1. The Appellant: West Bengal Power Development Corporation Ltd.
2. The Respondent: ADIT, CPC, Bengaluru.
3. CIT(A), Addl/JCIT(A)-7, Mumbai
4. Pr. CIT-
5. DR, ITAT, Kolkata Bench, Kolkata
6. Guard file.

//True Copy//

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata