

IN THE INCOME TAX APPELLATE TRIBUNAL “E” BENCH, MUMBAI

BEFORE MS. KAVITHA RAJAGOPAL, JM
AND
SMT. RENU JAUHRI, AM

ITA No. 1028/Mum/2024
(Assessment Year: 2021-22)

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| KSB Limited 601, Tower 1, Runwal R-Square, L.B.S. Road, Opp. Veena Nagar, Mulund West, Mumbai - 400080 | Vs. | Deputy Commissioner of Income Tax, Circle 3(4), Mumbai. |
| PAN/GIR No. AAACK5918J | | |
| (Appellant) | : | (Respondent) |

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|----------------------|---|---------------------------------------|
| Assessee by | : | Shri J. D. Mistri a/w. Shri Ketan Ved |
| Respondent by | : | Shri Biswanath Das - CIT DR |

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| Date of Hearing | : | 17.04.2025 |
| Date of Pronouncement | : | 09.07.2025 |

ORDER

Per Kavitha Rajagopal, J M:

This appeal has been filed by the assessee, challenging the order of the learned Commissioner of Income Tax (Appeals) Delhi ('ld. CIT(A)' for short), National Faceless Appeal Centre ('NFAC' for short) passed u/s.250 of the Income Tax Act, 1961 ('the Act'), pertaining to the Assessment Year ('A.Y.' for short) 2021-22.

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

1. The order passed by the learned CIT (Appeals) is ultra vires, illegal, bad in law and contrary to the provisions of the Act.

Addition on account of advance received of Rs.1,43,32,00,000 from customers

2. The learned CIT (Appeals) erred in upholding the action of the Assessing Officer ["AO] in making addition of Rs.1,43,32,00,000 towards advance received from customers outstanding as on 31 March 2021.



3. *The learned CIT (Appeals) erred in not appreciating that the advances could be recognized as income by the appellant only upon fulfillment of the corresponding contractual obligations assigned thereto specifically being delivery of goods wherein the risk, title, control and economic ownership stands transferred to the customer, etc.*

4. *The learned CIT (Appeals) erred in not appreciating the submissions in its correct perspective and in making unsubstantiated and irrelevant observations and in drawing erroneous conclusions therefrom.*

Addition on advances received in earlier years and outstanding as on March 31, 2021, cannot be made.

5. *Without prejudice to the above, the learned CIT (Appeals) erred in not considering that the addition at best could be made, only to the extent of Incremental advances received during the year under consideration.*

6. *Without prejudice to the above, the learned CIT (Appeals) erred in not excluding the advances received in the earlier years and which are outstanding on as on 31 March 2021 as well as the amount of advances received during the year under consideration and which have been already invoiced and accounted as income during the year.*

Double taxation

7. *Without prejudice to the above, the learned CIT (Appeals) erred in not appreciating the fact that out of the total advances of Rs. 143.32 crores outstanding as on 31 March 2021, some of these advances were invoiced and offered to tax in the subsequent years. Therefore, bringing the entire amount of Rs. 143.32 crores to tax in the year under consideration has resulted into a double taxation of such sum, which the learned CIT (Appeals) ought to have directed to be deleted in subsequent respective years.*

Addition made on gross basis without allowing a corresponding expense.

8. *Without prejudice to the above, the learned CIT (Appeals) erred in not directing the assessing officer to allow corresponding expenses against the advance received from customers.*

Consequential excess-levy of interest under section 234A/2348 of the Act



9. *The learned CIT (Appeals) erred in confirming the levy of excess interest charged under section 234A of the Act to the extent of Rs. 1,44,28,612 and under section 234B of the Act to the extent of Rs. 8,12,46,396.*

Excess-levy of interest under section 234C of the Act

10. *The learned CIT (Appeals) erred in confirming the levy of excess interest under section 234C of the Act to the extent of Rs. 31,34,842.*

11. *The learned CIT (Appeals) ought to have appreciated that the interest under 234C of the Act can be charged only on the returned income and therefore, no additional interest could be charged on this account.*

Others

12. *Each one of the above grounds of appeal is without prejudice to the other."*

3. Brief facts of the case are that the assessee is incorporated under the provisions of the Companies Act, 1956 and engaged in the manufacturer of power-driven pumps, industrial valves and castings which includes a wide range of pumps which are specialized and are manufactured as per specific needs. The assessee had filed its return of income dated 10.03.2022, declaring total income at Rs. 2,11,97,20,710/- and the assessee's case was selected for scrutiny through CASS for the following reasons:

"Cases involving addition in an earlier assessment year(s) on a recurring issue of law or fact and/or law and fact:- Where the addition in an earlier assessment year(s) on a recurring issue of law or fact and/or law and fact (including transfer pricing issue) is: a. exceeding Rs.25 lakhs in eight metro charges at Ahmedabad, Bengaluru, Chennai, Delhi, Hyderabad, Kolkata, Mumbai and Pune; b. exceeding Rs.10 lakhs in charges other than eight metro charges; and where such an addition: 1. has become final, as no further appeal has been preferred against the assessment order; or 2. has been upheld by the Appellate Authorities in favor of Revenue; even if further appeal of assessee pending, against such order."

4. The Id. AO observed that the assessee has received advance from customers amounting to Rs. 143,32,00,000/- under the head "Advance from customer" [Note-20 of the



audited financials] for which details were sought for by the Id. AO. After considering the assessee's submission, where the details of top 10 customers from whom advance have been received along with sample copies of invoice have been furnished, the Id. AO made an addition amounting to Rs. 143,32,00,000/- u/s. 28 of the Act on the ground that the assessee has failed to furnish details of the agreements that are entered into between the contracting parties and that out of the total advance of Rs. 85,45,22,202/- received from the major parties the revenue recognized in subsequent years was only Rs. 26,95,98,122/-. The Id. AO passed the assessment order u/s. 143(3) r.w.s. 144B of the Act dated 27.12.2022, determining total income at Rs. 355,29,20,710/-, after making addition on account of the receipt of money under the head "Advance from customers" u/s. 28 of the Act amounting to Rs. 143,32,00,000/-.

5. The assessee was in appeal before the first appellate authority, challenging the addition made by the Id. AO and also on the interest levied u/s. 234A, 234B and 234C of the Act before the first appellate authority who vide order dated 11.01.2024 upheld the order of the Id. AO.
6. The assessee is in appeal before us, challenging the impugned addition and the interest levied u/s. 234A, 234B and 234C of the Act.
7. The learned Authorised Representative ('Id. AR' for short) for the assessee contended that out of the total advances received from the customers by the assessee, the majority is from Nuclear Power Corporation of India Ltd. (NPCIL) amounting to Rs. 58.49 crores and Rs. 84.83 crores from other customers were the party-wise details of the said amount has been filed before us. The Id. AR further stated that the contract with NPCIL



was entered into by the assessee in January, 2018 with a total contract value of Rs. 398 crores for supply of pumps and motors. The ld. AR further stated that as these are specialized pumps which requires considerable amount of time, the assessee receives advance in tranches as per the terms of the contract. The ld. AR contended that out of Rs. 58.49 crores received from NPCIL, the assessee did not receive any advance during the year under consideration and the same pertains to the prior years and that the assessee had requested for extension of the delivery of final products until 2026-27 on account of covid pandemic and various other reasons and the same was approved by NPCIL. Further, the ld. AR contended that the advance received by the assessee was utilized towards advance to suppliers and for inventory work in progress and the same still stands as “Advance received from customers” in the books of the assessee and has been offered to tax in the subsequent years on completion of projects and on supply of goods on the basis of the revenue recognition method followed by the assessee consistently. The ld. AR reiterated that the assessee has received advances from customers in its routine business activities which was utilized for the purpose of its manufacturing activities and the revenue is recognized as and when the goods are transferred to the customers and that for other years there has been no such addition made in the hands of the assessee were the department has accepted the assessee’s method of accounting.

8. The learned Departmental Representative ('ld. DR' for short) for the revenue on the other hand controverted the same and stated that the assessee has failed to furnish complete details of the transactions along with the copy of the agreements which



contained the risk and rewards of the said contracts and also the revenue recognition for the advance that has been received from various parties. The ld. DR relied on the orders of the lower authorities.

9. We have heard the rival submissions and perused the materials available on record. The issue that requires adjudication is whether advance received by the assessee from various customers has been brought to tax as per the method of accounting followed by the assessee for revenue recognition. The lower authorities have made an addition on account of the receipt of money received by the assessee under the head “Advance from customers” were advances were received from major parties viz. NPCIL and from other customers. The assessee’s contention was that these advances were received in a normal course of business and were offered to tax in subsequent years as and when the project is completed. The assessee further contends that as against such advances the assessee has also had closing stock of work in progress (projects under execution) which amounted to Rs. 171.04 crores. The assessee further gave a summary of the outstanding advance as on 31.03.2021 and the revenue recognition against such advance which has been tabulated herein under:

| <i>Particulars</i> | <i>Advance as on 31 March, 2021</i> | <i>Revenue Recognised in subsequent years</i> | <i>Balance advance pending as on 31 March 2025</i> |
|------------------------|-------------------------------------|---|--|
| <i>NPCIL</i> | <i>58,49,19,970</i> | <i>-</i> | <i>58,49,19,970</i> |
| <i>Other Customers</i> | <i>84,82,75,284</i> | <i>77,30,56,623</i> | <i>7,52,18,661</i> |
| <i>Total</i> | <i>1,43,31,95,254</i> | <i>77,30,56,623</i> | <i>66,01,38,631</i> |



10. It is also observed that the lower authorities have rejected the assessee's contention mainly on the ground that the assessee has failed to furnish complete documentary evidences to substantiate its claim that the assessee has already to the extent of Rs. 77.30 crores has duly recognized revenue in the subsequent years and has offered the same to tax out of total advance of Rs. 143.31 crores which was not considered by the lower authorities. Further, the assessee prays that the Id. AO may be directed to verify the agreements entered into by the assessee that NPCIL from whom it had received the sizable amount of advance which as per the said contract has extended the time for project completion till 2026/2027 which fact has not been looked into by the lower authorities. The assessee further contended that the out of the advance received from other customers amounting to Rs. 84.82 crores, the assessee has already offered to tax Rs. 77.30 crores and the remaining is only Rs. 7.52 crores which fact has also been not considered by the lower authorities.
11. From the above facts of the case, it is evident that there has been no such addition made in the earlier years and in the subsequent years as contended by the assessee and further it is evident that the lower authorities have not looked into the terms and conditions of the contractual obligation entered into by the assessee with the NPCIL from whom the assessee has received an advance of Rs. 58.49 crores. As the same requires factual verification with regard to the said transaction and also the fact that the advance received from other customers which aggregated to Rs. 84.82crores, the assessee has offered Rs. 77.30 crores, we deem it fit to remand these issues back to the file of Id. AO for verifying whether or not the assessee has offered the same to tax in the subsequent



years as and when the project has been completed. We also direct the assessee to provide complete details along with documentary evidence to establish that the assessee has offered the same to tax on completion of the projects and to also consider the terms of agreement with NPCIL. While considering the same, the Id. AO is also directed to take into consideration the method of accounting followed by the assessee in earlier and subsequent years for revenue recognition and to decide the issue in hand in accordance with the same.

12. On the above terms, ground no. 1 to 8 raised by the assessee are hereby allowed for statistical purpose.
13. Ground no. 9 to 11 pertain to interest levied for default in furnishing return of income, default in payment of advance tax and for deferment of advance tax. The assessee contends that the return of income has been filed on time and there has been no delay in the same. As this requires factual verification, we deem it fit to remand this issue also back to the file of the Id. AO and the other two grounds on 234B and 234C being consequential in nature requires no separate adjudication.
14. In the result, all the grounds raised by the assessee are hereby allowed for statistical purpose.
15. In the result, the appeal filed by the assessee is allowed for statistical purpose.

Order pronounced in the open court on 09.07.2025

Sd/-
(RENU JAUHRI)
ACCOUNTANT MEMBER

Sd/-
(KAVITHA RAJAGOPAL)
JUDICIAL MEMBER



Mumbai; Dated: 09.07.2025
Karishma J. Pawar (Stenographer)

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent
3. CIT- concerned
4. DR, ITAT, Mumbai
5. Guard File

BY ORDER,

(Dy./Asstt.Registrar)
ITAT, Mumbai