

**आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम**

**IN THE INCOME TAX APPELLATE TRIBUNAL  
VISA KHAPATNAM "SMC" BENCH, VISA KHAPATNAM**

**(HYBRID HEARING)**

**श्री रवीश सूद, न्यायिक सदस्य एवं श्री एस.बालाकृष्णन, लेखा सदस्य के समक्ष  
BEFORE SHRI RAVISH SOOD, HON'BLE JUDICIAL MEMBER**

**&**

**SHRI S BALAKRISHNAN, HON'BLE ACCOUNTANT MEMBER**

**आयकर अपीलसं./I.T.A.No.292/VIZ/2025  
(निर्धारणवर्ष/ Assessment Year:2018-19)**

<b>Padmasree Steels Private Limited</b> RS No. 109 & 110 Devarapalli Ravulapalem – 533238 Andhra Pradesh  [PAN:AADCP2642P]	<b>Vs.</b>	<b>DCIT – CIRCLE –1</b> 3 <sup>rd</sup> Floor, Deepthi Towers Main Road Kakinada – 533001 Andhra Pradesh
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करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Smt Hemalatha K. CA
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Dr. Aparna Villuri, Sr.AR
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	23.09.2025
घोषणा की तारीख/Date of Pronouncement	:	31.10.2025

**आदेश /ORDER**

**PER SHRI S. BALAKRISHNAN, ACCOUNTANT MEMBER:**

1. This appeal is filed by the assessee against the order of Learned Commissioner of Income Tax (Appeals), National Faceless Appeal centre, Delhi [hereinafter in short "Ld.CIT(A)"] vide DIN & Order No.

ITBA/NFAC/S/250/2025-26/1075882821(1) dated 29.04.2025 for the A.Y.2018-19 arising out of order passed under section 143(3) of Income Tax Act, 1961 (in short 'Act') dated 11.02.2021.

2. Briefly stated facts of the case are that, assessee being a Company filed its return of income on 30.10.2018 declaring a total income of Rs.NIL, after setting off brought forward loss. However, assessee computed tax as per MAT under section 115JB of the Act and declared the deemed total income at Rs.1,51,95,147/-. The return was summarily processed under section 143(1) of the Act on 24.05.2019 and subsequently rectified on 28.11.2019. The case was selected for complete scrutiny under e-assessment scheme for the issue "Excess Contribution to Provident Fund, Superannuation Fund or Gratuity Fund". Accordingly, notices under section 143(2) and 142(1) of the Act were issued and served on the assessee. In response, assessee filed the details and documents electronically. Ld. Assessing Officer [hereinafter in short "Ld. AO"] after examining the submissions and the return of income filed by the assessee noticed that assessee has made a provision for gratuity of Rs.19,79,712/- and added it to the total income of the assessee thereby reducing carry forward loss. The Ld. AO also disallowed the provision for gratuity for the purpose of computation of book profits under section 115JB of the Act. Ld. AO also noticed that assessee has earned interest income of Rs.13,37,872/- as per Form 26AS but however disclosed an amount of Rs.12,89,998/- while filing return of

income. Ld. AO on not being satisfied with the clarification and reconciliation provided by the assessee for the difference amount of Rs.47,874/-, added it to the total income of the assessee.

3. On being aggrieved by the additions made by the Ld. AO, assessee filed an appeal before Ld. CIT(A). Ld. CIT(A) dismissed the appeal of the assessee while sustaining the additions made by the Ld. AO.

4. On being aggrieved by the order of the Ld. CIT(A), assessee is in appeal before us by raising following grounds of appeal: -

*“1. That under the facts and circumstances of the case, the order passed by the Ld. Assessing Officer (in short 'Ld.AO") u/s 143(3) dt. 11-02-2021 which is confirmed by Ld. Commissioner of Income-tax (Appeals) (in short 'CIT(A)') u/s. 250 of IT Act dt. 29-04-2025, is not in accordance with the provisions of law.*

*2. Ld. CIT(A) is not justified in confirming the action of AO in disallowing the provision made for employee gratuity amounting to Rs.19,79,712/-, while computing the book profits u/s 115JB of the IT Act.*

*3. Ld. CIT(A) ought to have known that the computation of books profits for the purpose of section 115JB is governed by explanation 1 to section 115JB (2) and the disallowance of gratuity in terms of rule 87 or 88 of Income-tax Rules, 1962 cannot be made while calculating book profits u/s 115JB of the IT Act.*

*4. Ld. CIT(A) ought to have appreciated that the provision for gratuity debited to P&L Account is an ascertained liability, which assessee is liable to pay its employee under the Payment of Gratuity Act, 1972, hence the same cannot be termed as unascertained liability which needs to be added back to the book profits as per explanation 1 to section 115JB(2) of the IT Act.*

*5. Ld. CIT(A) erred in confirming the action of Ld. AO in not allowing the credit for TDS reflected in Form 26AS amounting to Rs. 1,38,850/-.*

*6. Ld. CIT(A), to deny the credit for TDS, erred in making an observation stating that Assessee failed to reconcile the interest income*

*reflected in Form 26AS v. interest income offered to tax by assessee, without appreciating the fact that the addition made by Ld.AO in this regard of Rs.47,874/- was accepted and not disputed by assessee, in which case, the credit for TDS deducted on this income is allowable.*

*7. For these and such other grounds, that may be urged at the time of hearing of subject appeal, the appellant prays that the addition made by Ld.AO with respect to the gratuity provision while computing book profits u/s 115JB of the IT Act be deleted and credit for TDS reflected in form 26AS be allowed, in the interest of justice.”*

**5.** The two issues emanating from the above grounds are with respect to adding back an amount of Rs.19,79,712/- to the book profits of the assessee as computed in accordance with section 115JB of the Act and not allowing the credit for TDS as per Form 26AS of Rs.1,38,850/- on the interest income admitted by the assessee. Assessee has also filed a petition under Rule 29 of ITAT Rules, 1963 to admit additional evidences. The additional evidences provided by the assessee is the Actuarial Valuation Report as on 31.03.2018 on which basis the provision for gratuity has been made in the books of accounts of the assessee. Since the additional evidence being the actuarial valuation report computes the provision for gratuity based on which the assessee has claimed it in the books of accounts, we find that the additional evidence goes to the root of the matter and we therefore admit the additional evidences filed by the assessee.

**6.** Ld.AR submitted that assessee has made the provision for gratuity based on the Actuarial Valuation Report and therefore it is an ascertained liability allowable to be deducted while computing book profits under section 115JB of

the Act. She referred to the provisions of section 115JB of the Act wherein Explanation 1(c) of section 115JB clearly states as follows: -

*“Explanation 1.—For the purposes of this section, “book profit” means the profit as shown in the statement of profit and loss for the relevant previous year prepared under sub-section (2), as increased by—*

*(c) the amount or amounts set aside to provisions made for meeting liabilities, other than ascertained liabilities:”*

7. She therefore submitted that since the provisions for gratuity is ascertained liability as per plain reading of the above Explanation, it is allowable for deduction for the purpose of computing the book profits under section 115JB of the Act. On this issue, she placed reliance in the following cases: -

- i. Easter Power distribution Co. Of AP Ltd. v. ACIT [2011] 10 taxmann.com 282 (Visakhapatnam).
- ii. Andhra Pradesh Gas Power corporation v. DCIT in ITA No. 1765/HYD/2017.
- iii. Echay Forgings v. Bombay HC [2001] 116 Taxman 322 (Bombay).
- iv. Dreser Valve Private Limited v. ACIT [2009] 30 SOT 495 (Mumbai).

8. She therefore pleaded that the addition made by the Ld. AO for the purpose of computation of book profits under section 115JB of the Act should be deleted.

9. On the other hand, Ld. Departmental Representative [hereinafter in short “Ld. DR”] heavily relied on the order of the Revenue Authorities.

10. We have heard both the sides and perused the material available on record. The assessee has filed a petition under Rule 29 of ITAT Rules, 1963

furnishing the Actuarial Valuation Report for estimating the provision for gratuity which is a determining factor, for the purpose of computing the book profits under section 115JB of the Act. The only issue is whether the provision for gratuity is an ascertained liability or an unascertained liability. The assessee did not contest the addition made by the Ld. AO under the normal provisions of the Act creating the disallowance of Rs.19,79,712/- thereby reducing the carryforward loss.

**11.** Section 115JB of the Act mandates that in the case assessee being a Company, if the total income computed under the Act is less than 10% of its book profit such book profit shall be deemed to be the total income of the assessee. Section 115JB(2) provides that while computing the book profits for the purpose of this section, every company shall prepare its Profit & Loss Account in accordance with the Companies Act. In the instant case, the amount addition of Rs.19,79,712/- being the gratuity payable is estimated on the basis of Actuarial Valuation, it has been held by various judicial pronouncement that this kind of provision falls under the category of “Ascertained Liability”. Since it has been held the provision made for gratuity is an ascertained liability, hence the same is deductible while computing the book profits under section 115JB of the Act. We therefore respectfully following the judicial pronouncements relied on by the Ld. AR, the amount so provided in the books of accounts as provision for gratuity is an ascertained liability and the same shall be allowable while

computing the book profits under section 115JB of the Act. We therefore remit the matter back to the file of the Ld. AO to examine the additional evidences provided by the assessee in the form of Actuarial Valuation Report while determining the provision for gratuity which shall be allowed in accordance with the discussions as aforesaid. Thus, this ground raised by the assessee is allowed.

**12.** The second issue pertains to denial of credit for the Tax Deducted at Source on the interest income amounting to Rs.1,38,850/-. Ld.AR submitted that assessee has disclosed interest as income from other sources amounting to Rs.12,89,998/-. However, interest income as per Form 26AS is disclosed at Rs.13,37,872/-. The Ld.AR submitted that it was clarified to the Ld. AO and reconciliation statement provided for the difference of Rs.47,874/-. She further submitted that assessee has also not objected to the addition of Rs.47,874/- being the difference in the interest income disclosed by the assessee on its comparison with Form 26AS. She therefore submitted that interest as available in Form 26AS has been fully admitted during the assessment proceedings. Therefore, she pleaded that the entire credit for TDS as per Form 26AS amounting to Rs.1,38,850/- shall be allowed to the assessee. She therefore prayed that the issue may be remitted back to the file of Ld. AO for verification of the Form 26AS regarding the interest income and the TDS credits.

**13.** Per contra, Ld. DR relied on the orders of the Revenue Authorities. Ld.DR pleaded that the issue may be remitted back to the file of Ld. CIT(A).

14. We have heard both the sides and perused the material available on record. It is an admitted and undisputed fact that the assessee has disclosed interest amount of Rs.12,89,998/- and has also not objected to the addition of difference in the interest disclosure as per Form 26AS amounting to Rs.47,874/-. In this scenario, if the income is admitted by the assessee the corresponding credit for tax deducted at source shall also be allowed in the same assessment year to the assessee amounting to Rs.1,38,850/-. We therefore direct the Ld. AO to examine the Form 26AS and the interest disclosure by the assessee and grant the credit of TDS amounting to Rs.1,38,850/-. Accordingly, this ground raised by the assessee is allowed.

15. In the result, appeal of the assessee is allowed.

Order pronounced in the open court on 31<sup>st</sup> October, 2025.

Sd/-

(रवीश सूद)

(RAVISH SOOD)

न्यायिक सदस्य/JUDICIAL MEMBER

Dated: 31.10.2025

Giridhar, Sr.PS

Sd/-

(एस बालाकृष्णन)

(S. BALAKRISHNAN)

लेखा सदस्य/ACCOUNTANT MEMBER

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee : **Padmasree Steels Private Limited**  
RS No. 109 & 110 Devarapalli  
Ravulapalem – 533238  
Andhra Pradesh
2. राजस्व/ The Revenue : **DCIT – CIRCLE –1**  
3<sup>rd</sup> Floor, Deepthi Towers Main Road  
Kakinada – 533001  
Andhra Pradesh
3. The Principal Commissioner of Income Tax
4. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, विशाखापटणम /DR,ITAT, Visakhapatnam
5. The Commissioner of Income Tax
6. गार्डफ़ाईल / Guard file

आदेशानुसार / BY ORDER

Sr. Private Secretary  
ITAT, Visakhapatnam