

**IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH : BANGALORE**

**BEFORE SHRI. LAXMI PRASAD SAHU, ACCOUNTANT MEMBER
AND SHRI. SOUNDARARAJAN K, JUDICIAL MEMBER**

ITA No.1393/Bang/2019
Assessment Year : 2011-12

Shri. Srinivasulu Metri, 168/C 18 th Ward Near Water Booster, Gandhi Nagar, Bellary – 583 103, Karnataka. PAN : ANOPS 2178 Q	Vs.	DCIT, Circle – 1(1) Bellary.
APPELLANT		RESPONDENT

Assessee by	:	Shri. B. S. Balachandran, Advocate
Revenue by	:	Shri. D. K. Mishra, CIT(DR)(ITAT), Bangalore.

Date of hearing	:	13.11.2025
Date of Pronouncement	:	18.12.2025

ORDER

Per Laxmi Prasad Sahu, Accountant Member :

This is an appeal filed by the assessee against the Order passed by the learned CIT, Gulbarga, vide Order dated 29.03.2019.

2. Briefly stated facts of the case are that assessee is engaged in mining activities in Gulbarga area, filed return of income on 28.11.2012 declaring taxable income of Rs.1,98,72,650/ which was admitted-. The reassessment u/s 143(3) r.w.s. 147 was completed on dated 21.12.2018 wherein the AO has not considered the claim of loss of stock amounting to Rs. 1,32,26,706 and assessed the income at Rs. 3,40,96,250-. A notice under section 143(2) of the Act dated 29.11.2012 was issued and served to the assessee and assessment was made on 14.02.2013 assessing income at Rs. 3,30,99,354/- as against income admitted of Rs.1,98,72,650/- . The search and seizure operation was

conducted in the case of the assessee on 28.09.2010. Accordingly, statutory notices were issued to the assessee. During the course of search, assessee offered Rs.12 lakhs as unexplained investment income towards excess jewellery found. Assessee furnished details and from the details, it was observed from the P&L A/c that there is opening stock of Rs.10,54,06,116/- and there is no closing stock. There is comment of the tax auditor in Form 3CB which is as under:

"Revenue recognition is done on the basis of raising of invoices on customers recorded exclusive of taxes.

The Deputy Director of Department of Miners & Geology, Chitradurga has suspended mining activities, pending border issues, vide his order dt: 22.03.2011 No 2631/2010-11/5911 and also ceased the stock of Iron ore. Further the Hon'ble Supreme Court has imposed a ban on mining activities of the company vide its order dt: 26.08.2011. The inventory of Iron Ore as on 26.08.2011 is impounded by the monitoring committee. The stocks impounded are auctioned by the Monitoring Committee. It is indicated vide its order that the extent of violations with reference to the extraction and dumping of ore would be categorized into A, B & C levels. The Hon'ble Supreme Court would then decide on the quantum of penalty leviable on such violations. Regarding violations of "A" Level category payment of 80% would be realised to the respective companies only after thorough scrutiny and evaluation by the committee and regarding "B" & "C" categories amount would be decided only after the decision of the Hon'ble Supreme Court. Meanwhile taxes like VAT, FDT, Royalty etc., are directly paid by the Monitoring Committee. In case of the assessee a total Qty 51,249 MT has been impounded by the committee and categorized as level "C".

A total Qty of Qty 23,802 MT has been sold by the Monitoring Committee as on the date of reporting there has been no confirmation about the value and date of release of the sale proceeds. The assessee has been informed by the ultimate buyer in auction that the invoices have been raised by the Monitoring Committee, copies of which are not available with the assessee. As there is no reasonable certainty of realization of the ceased stock, the valuation of Closing Stock done at Zero price and would account the same on realization of the ceased stock. "

3. During the course of assessment proceedings, AR was asked to provide details as to why closing stock was not reflected in the return of income filed and why should not be added to the income of the assessee. Assessee filed details on 29.12.2012 which is as under:

"As on 31.03.2012 Qty of 51,249 Ton closing stock were there, the mining operation has been suspended by the Mines & Geology Dept., Govt. of Karnataka and later the stock has been seized by the Central Empower Committee (CEC) as per the order of the Hon'ble Supreme Court vide its order dt: 26.08.2011. In view of the uncertainties of realizations the value of stocks has shown in Financial Statements as NIL. The cost of closing stock has been arrived at Rs. 1,32,26,706/- as per annexure enclosed herewith."

4. From the submissions, the AO observed that the stock is seized by Department of Mines and Geology. Therefore, it is not appearing in the P & L A/c. The learned Counsel reiterated the submissions made before the lower authorities and referred to letters issued by the various officers and he referred to English translation of the letter issued by the Mining and Geological Department dated 22.03.2011 and 04.11.2011 issued by the Range Forest Officer. He referred to letter issued by Deputy Director, Mining and Geological Department dated 22.03.2011 and submitted that stocks were seized by the Mines Department before closure of year. Therefore assessee

had no right on the seized closing stock. That is why assessee has not shown as closing stock. In the financial statement value has been taken as zero.

5. On the other hand, learned DR strongly relied on the Order of Hon'ble Apex Court and stated that the Hon'ble Apex Court decided the issue on 29.07.2011 as per his written synopsis and as per the classification assessee is coming under "C" category mines. Further he submitted that the judgment of the Hon'ble Apex Court was delivered on 22.07.2011 which is much later of the end of the Financial Year. Therefore in the letter issued by the Mines Department, there is no reference of the confiscation / seizure of the stock value as on particular date. The judgment of Hon'ble Apex Court will be effective from the date of pronouncement and as per the classification of the judgment assessee is under "C" category so the entire stock was seized. The effect of this judgment of the Hon'ble Apex Court will be in Financial Year 31.03.2011 and he further submitted that valuation of stock calculated by the AO is wrong. He relied on the judgment of Hon'ble Supreme Court in the case of Maddi Venkataraman and Co. (P.) Ltd., Vs. CIT [1998] 96 Taxman 643 (SC). The shortage / excess shown there is no explanation offered by the assessee in for quantity of 51,151 and requested that the matter may be sent back to the AO for fresh valuation of the stock lying at the site. He further submitted that both the authorities as well as CIT(A) has used wrong word 'seized' which is emanating in the list issued by the Forest Department and Mining and Geological Department and submitted that the case law relied on by the learned Counsel is not applicable to the present facts of the case.

6. Considering the rivals submissions we noted that the assessee is engaged in mining activities and filed return of income. The case of the assessee was completed under section 143(3) r.w.s. 147 dated 21.12.2018 wherein the AO has not considered the claim of loss of stock amounting to

Rs.1,32,26,706/-. Accordingly, notice under section 148 of the Act was issued to the assessee. In response to notice, assessee has filed original return of income which was made on 14.02.2013 wherein income was determined at Rs.3,30,99,344/- as against the income admitted of Rs.1,98,72,650/- while filing original return assessee claimed loss of stock amounting to Rs.1,32,26,706/-. On going through the submissions made by the learned Counsel and letter issued by the Range Forest Officer dated 04.03.2011, letter Deputy Director, Mining and Geological Department dated 22.03.2011 and letter issued by Deputy Conservator of Forests dated 24.03.2011, reproduced below, we did not find anywhere that the stocks lying at site were seized by the above Departments before 31.03.2011.

SL No.R F O- H D-Mines-Road-Det/-/10-11

Office of the
Range,Forest Officer
Hosadurga Range,
Hosadurga, Date 04.03.2011

NOTICE

Sub:Conducting Joint Survey in K.K.Kaval Forest Area
Ref:Principal Chief Conservator of Forest (Chief of Forest Force)
Vide their Office Letter NO.APCCF/FC/_/2010-11 dated
26.02.2011

With reference to the above subject, hereby you are informed that as per the above referred letter the joint survey work is going on in K.K.Kaval forest area, as such Srinivasulu mines have to suspend mining activities temporarily and shall continue suspension of mining activities till further orders. And will be informed to resume mining, after the completion of joint survey.

Sd/-
Range Forest Officer
Hosadurga Range, Hosadurga

To
M.Srinivasulu Mines
K.K.Kaval
M.L.No.2631, Kanchipura

D:\M.Srinivasulu kan. to eng.

// True translation from Kannada to English//

Government of Karnataka

Office of the
Deputy Director's
office, Mines & Geology department,
B.L.Gouda Extension,
Besides Basappa Hospital,
Chitradurga,

No.Unichi/GA.BHU.E/Gagu
No.2631/2010-11/ 5911.

date 22-03-2011.

NOTICE

Sub: Mining Lease No.2631 -Deficiencies found during Joint Survey in
Mining Lease Area- reg.

Ref : (1) This Office Letter No. Unichi/GA.BHU.E/Gagu No.2631/4948-49,
Dated 19-01-2011.

(2) HA AML 2004 Letter sent by the Applicant on 01-03-2011.

With reference to the above, when Mining Lease No.2631 area was inspected, the undersigned instructed vide ref no (1) as above to do Mining activities after correcting the Mining Lease marks/ boundaries on the western side of Mining Lease and not do any activities within the 50 Meters of the markings. As mentioned in the reference notices No.(1) and No.(2) during the joint survey many deficiencies were found. In this regard, this Office Geologists and Assistant Engineers made direct inspection and found the below mentioned particulars in the said area on 22-03-2011 and issued Reports in this regard.

(1) Found making Mining activities outside the marks shown in the Mining sketch.

(a) We found on North-West side of M L Area you have made mining for Float Ore and you have made 9 trenches/benches in approximately 0.40 Hectors.

(b) We found in the said place, you made activities and stocked up the processed float ore of about 3,500 Metric tons and kept the same in various places.

- (c) We found outside the North side from point 'D' you made development works for purpose of doing Mining activities and you have also constructed benches (nearly 0.30 hectares).
- (2) We found that there is difference between areas in sanctioned plan and area identified in joint survey report and are not matching. We also found doing mining activities in between (DD 'EE') area.
- (a) We found that you have made Mining activities in between the said area and made trenches for the purpose of Float Ores and stocked nearly 2,000 M.T's of Iron Ore (Float Ore).
- (b) In the center of the said place we also found a Processing Plant and partly Mining Waste stocked in the said place.
- (c) We also found North side of 'D & D' points as per plan in nearly 0.35 hectares area you made mining activities by constructing five benches and done Mining activities.

..2..

As this area belongs to K.K. Kavalu Forest Area and till the action is taken by the Forest department or jointly, the Mining activities in the place mentioned in the Sanctioned Plan (Nakshe) and stocked Iron Ore of 3,500 M.T.'s in the said place and the Iron Ore 2000 M T stocked between sanctioned plan (Nakshe) area and survey (Mojani) area which were shown in the place (DD 'EE') maintain status quo and stop all Mining Activities in Mining Lease area till further orders in this regard.

Sd/-

Deputy Director,
Mines & Geology Department,
Chitradurga.

To
M.Srinivasulu,
Srinivasa Nilayam,
D.No.23, 18th Ward,
Near Water booster,
1st Cross, Gandhinagar,
Bellary.

Seidune
22.09.2012.
18.04.2013. DR.

//Translation from Kannada to English//

No.A6/Srinivasa-Mining-Misc/2010-11/5619

Office of the
Deputy Conservator of Forest,
Chitradurga Division,
Chitradurga, Date 24.03.2011

NOTICE

Sub: Diversion of 74.86 Hectares of Forest Land for their mining in Kudurekanive Reserve forest, Sy.No.1 in Hosadurga Taluk, Chitradurga District, by sriM.Srinivasulu, Bellary.

- Ref: 1.Government of India letter No.F.No.8-27/2008 FC dated 31.03.2010.
2.Government of Karnataka Order No.FEE18 FFM2008 Bengaluru dated 24.04.2010.
3.This office letter of even dated 05.03.2011
4.Joint survey done by Revenue, Mines & Geology and Forest Dept.

With reference to the above, as per Forest Conservation act, the Government of India and Government of Karnataka in the references letters (1) & (2) have granted permission to carryout mining activities in Kudurekanive Kaval Survey No.1 to the extent 74.86 Hectares in Hosadurga range of Chitradurga Division.

Upon joint spot inspection of your mining lease area by Revenue, Department of Mines and Geology and Forest Department , it is observed that mining activities are done outside the lease area granted to you.

As such as has been stated in the Joint Survey report and map with regard to mining activities outside the lease granted to you,you are here by asked to submit your explanation to this office with in one week and also informed that as stated in the notice stocked ore shall not be transported on any reason and to maintain status Quo.

Sd/-

Deputy Conservator of Forests
Chitradurga Division, Chitradurga

To
M.Srinivasulu,
Srinivasa Nilayam
House No.168/C,XVIII Ward,
Near Water Booster,3rd Cross,Gandhinagar,Bellary-583103

7. However, assessee has claimed loss of stock. As per the written submission of the DR we noted that there is purchase of 204693 metric tonne

of iron ore and sale of iron ore is 102293 metric tonne. So closing stock of iron ore should be 102400 metric tonne. However the value is taken as Nil which is not correct. As per the tax audit report, we observed that assessee is maintaining accounting method and merchantile system of accounting. We noted from the financial statement that purchase price of the iron ore is 10,54,06,116/- for 204693 metric tonne. Therefore purchase price is 514.95 per metric ton. How the AO has taken value of Rs.1,32,26,706/- and there is no explanation furnished by the assessee regarding loss of stock. We further noted that Order of Hon'ble Apex Court was pronounced on 29.07.2011. Therefore effect of judgment of Hon'ble Apex Court will not affect to the closing of Financial Year as on 31.03.2011 and both the authorities below have used word 'seized' which is not emanating anywhere from the list produced by the assessee noted supra. Only the mining activities were suspended. Assessee was doing mining activities outside the lease area granted. In this regard on 24.03.2011 assessee was issued letter and it was asked explanation and further directed not to transport ore stock and to maintain status quo. But t here is no seizure of stock. Therefore ownership was lying upon the assessee as on 31.03.2011. Assessee should have been shown the value of closing stock in his books of accounts.

8. Considering the totality of facts, we are remitting this issue back to the file of AO for denovo reassessment and assessee is directed to substantiate his case with cogent documents and not seek unnecessary adjournments for early disposal of the assessee. In case of failure, no second leniency shall be granted to the assessee.

9. In the result, appeal filed by the assessee is allowed for statistical purposes.

Pronounced in the open court on the date mentioned on the caption page.

Sd/-

**(SOUNDARARAJAN K)
Judicial Member**

Sd/-

**(LAXMI PRASAD SAHU)
Accountant Member**

Bangalore.

Dated: 18.12.2025.

/NS/*

Copy to:

1. Appellants
2. Respondent
3. DRP
4. CIT
5. CIT(A)
6. DR,ITAT, Bangalore.
7. Guard file

By order

Assistant Registrar,
ITAT, Bangalore.