

IN THE INCOME TAX APPELLATE TRIBUNAL
“DB” BENCH, AMRITSAR

VIRTUAL HEARING

BEFORE HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM
AND
SHRI UDAYAN DASGUPTA, JM

आयकर अपील सं. / ITA No.347/ASR/2019
(निर्धारण वर्ष / **Assessment Year: 2013-14**)

M/s Osaka Alloys and Steel (P) Ltd. 428, Mota Singh Nagar, Jalandhar C/o Bhagat And Co. (CA) 16 Brij Nagar, Jalandhar, Punjab - 144001	<u>बनाना/</u> Vs.	DCIT Circle - II Jalandhar Punjab - 144001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. AAACO-7097-G		
(अपीलार्थी/Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Adjournment request
प्रत्यर्थीकीओरसे/Respondent by	:	Sh. Farhat Khan (CIT) - Ld. DR

सुनवाईकीतारीख/Date of Hearing	:	03-02-2026
घोषणाकीतारीख /Date of Pronouncement	:	20.02.2026

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1. In this appeal for Assessment Year (AY) 2013-14, the assessee challenges exercise of revisional jurisdiction u/s 263 by Ld. Pr. Commissioner of Income Tax-1, Jalandhar (Pr. CIT) vide order dated 30-03-2018.
2. The Ld. AR appeared virtually and sought adjournment. However, keeping in mind the fact that this appeal was filed way back in the year 2019 and it is an old appeal, the adjournment was rejected.

Moreover, this being challenge to jurisdiction u/s 263 would have material bearing on consequential proceedings. Therefore, the adjournment request of Ld. AR could not be accepted.

3. It could also be seen that the appeal has been filed with a delay of 348 days. The reasons adduced in the condonation petition is that the assessee was pursuing matter u/s 264 wherein an order was passed by appropriate authority on 15-03-2019. Thereafter, the assessee preferred appeal against impugned order as passed u/s 263. On these facts, the assessee seeks condonation of delay. Accepting the plea of the assessee, we admit the appeal and proceed with the adjudication of the same on merits.

4. During hearing, an opportunity was also granted to Ld. AR to make oral arguments which he has chose not to make. Left with no option, we proceed to dispose-off the appeal on the basis of material on record and various written submissions as filed on behalf of the assessee. In the letter dated 23-05-2022 as placed on record, the counsel has requested for disposal of the appeal on the basis of written submissions. The same has duly been considered while adjudicating this appeal. Having heard the arguments of Ld. CIT-DR and upon due consideration of assessee's written submissions, our adjudication would be as under.

5. From case records, it emerges that the assessee was assessed u/s 143(3) on 29-03-2016. The Ld. AO made certain disallowances and framed an assessment. Subsequently, Ld. Pr. CIT, upon perusal of case records, observed that the assessee worked out book profits

of Rs.1,716/- after claiming deduction u/s 80IB for Rs.3,11,72,422/- which was not permissible deduction u/s 115JB. Such omission resulted in short computation of book profit. The Ld. AO failed to work out correct book profits of the assessee. Accordingly, the assessee was show-caused. Though the assessee opposed the revision on various grounds, Ld. Pr. CIT invoked Explanation-2 to Sec. 263(1) to hold that the order was erroneous and prejudicial to the interest of the revenue. The deduction u/s 80IB was not permissible deduction u/s 115JB. The assessee reduced book profit which was incorrect. The Ld. AO framed the assessment without examining this issue. The failure to make requisite enquiries on this issue would make the order erroneous and prejudicial to the revenue. Therefore, assessment order was set aside to that extent and Ld. AO was directed to pass assessment order after granting due opportunity of hearing to the assessee. Pursuant to these directions, consequential assessment has been framed on 15-12-2018 wherein Ld. AO has given effect to the aforesaid directions and computed book profits u/s 115JB. Aggrieved by impugned revision of the order, the assessee is in further appeal before us.

6. Upon perusal of assessment order dated 29-03-2016, it clearly emerges that Ld. AO has not computed any Book Profits u/s 115JB. There is no discussion, whatsoever, in the assessment order, on computation of Book Profit u/s 115JB. No such query is shown to have been made by Ld. AO during the course of assessment proceedings. Subsequently, Ld. Pr. CIT(A), upon perusal of case records,

appreciated the Book Profits as computed by the assessee and found that the Book Profits stood reduced by deduction claimed by the assessee u/s 80IB. The deduction was not permissible deduction u/s 115JB. The Ld. AO, while framing the assessment, has certainly not examined this issue, This being so, Explanation-2 to Sec.263(1) has correctly been invoked by Ld. Pr. CIT. Non-examination of this issue by Ld. AO fulfills twin conditions i.e., the order being erroneous and prejudicial to the interest of the revenue. Therefore no fault could be found in the impugned revision of the order.

7. From assessee's list of dates and events as placed on record, it could be observed that Ld. AO has sought rectification u/s 154 for re-computation of book profits u/s 115JB on 11-09-2017. However, no such order has been passed by Ld. AO in that respect. The assessee has filed replies against the same and also submitted an application u/s 154 wherein the assessee plead that the amount of Self-credit of Excise Duty for Rs.74,38,378/- was credited to Profit & Loss Account. However, the said amount was capital receipt and not chargeable to tax. The assessee omitted to exclude the same from taxable income. The said mistake being mistake apparent from record was sought to be rectified u/s 154. However, the same stood rejected by Ld. AO vide order dated 28-02-2018 which led the assessee to prefer an application u/s 264. This application stood rejected by appropriate authority on 12-03-2019. Therefore, it is clear that the proceedings u/s 264 were on different footing and the same is not the subject matter of

present appeal before us. In this appeal, we are only concerned with validity of revisionary jurisdiction of appropriate authority.

8. Finally, on the given facts and circumstances of the case, the impugned revision of the order could not be faulted with. However, our aforesaid adjudication would not construe to have any expression on the merits of the case. All the issues, on merits, are kept open in the consequential proceedings.

9. The appeal stand dismissed.

Order pronounced u/r 34(4) of Income Tax (Appellate Tribunal) Rules, 1963.

Sd/-
(UDAYAN DAS GUPTA)
JUDICIAL MEMBER

Sd/-
(MANOJ KUMAR AGGARWAL)
ACCOUNTANT MEMBER

Dated: 20.02.2026

आदेश की प्रतिलिपि अग्रेषित / **Copy of the Order forwarded to :**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF

ASSISTANT REGISTRAR

ITAT AMRITSAR