IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA BENCH 'C', KOLKATA
(Before Shri N.V.Vasudevan, J.M. &Dr.A.L.Saini, A.M.)

ITA Nos. 170 to 172/Kol/2014: Asstt. Years : 2007-08 to 2009-10

D.C.I.T., Circle-4, P-7, Chowringhee Square, Kolkata – 700 069	Vs	M/s. Joonktollee Tea & Industries Ltd., 21, Strand Road, Kolkata – 700 001 PAN: AAACJ 6577G
(APPELLANT)		**(RESPONDENT)**

C.O. Nos.20 & 21/Kol/2014 : Asstt. Years : 2007-08 & 2008-09
(arising out of ITA Nos.170 & 171/Kol/2014)

M/s. Joonktollee Tea & Industries Ltd., 21, Strand Road, Kolkata – 700 001	Vs	D.C.I.T., Circle-4, P-7, Chowringhee Square, Kolkata – 700 069
(APPELLANT)		**(RESPONDENT)**

Department by : None
Assesseeby : Shri P. J. Bhide, FCA

Date of Hearing : 09.08.2016		**Date of Pronouncement : 19-08-2016**

ORDER

Per Dr. A.L.Saini, A.M.:

The captioned three appeals filed by the Revenue pertaining to assessment year 2007-08, 2008-09 and 2009-10 are directed against the orders passed by the Ld. Commissioner of Income-Tax (Appeals)-IV, Kolkata in appeals No.233/ CIT(A)-IV/2009-10, No. 164/CIT(A)-IV/2010-11 and No.151/CIT(A)-IV/2011-12 respectively, which in turn arise out of the orderspassed by the Assessing Officer under section 143(3) of the Income Tax Act, 1961 (in short, `the Act`).

The captioned two Cross Objections cited above, filed by the assessee pertaining to assessment year 2007-08 and 2008-09 in C.O. Nos.20/Kol/14 and CO. No.21/Kol/14, respectively are directed against the orders passed by the ld. CIT(A)-IV, Kolkata, which in turn arise out of orders passed by the Assessing Officer U/s 143(3) of the Income Tax Act, 1961.

Since these three appeals and two Cross Objections relate to the same assessee and involve common issues, therefore, they have been clubbed and heard together and a consolidated order is being passed for the sake of convenience and brevity.

None appeared on behalf of the Revenue, even though notice of hearing was sent to it on more than one occasion. Hence, we proceed to dispose of the appeal ex-parte, without presence of the Departmental Representative.

2. **Ground No.1 taken by the Revenue, which is common in all three appeals, relate to cess on green leaf - whether it is allowable expenditure or not.**

The facts of this issue are stated in brief. The assessee is a private limited company incorporated under the Companies Act, 1956 and *inter alia*, engaged in manufacturing and production of green leaf tea. Green leaf is attributable to agricultural activities which is taxable under the State Agriculture Income Tax.As per Rule 8 only 40% of the composite income is taxable under Central Income Tax. The AO observed that the assessee debited expenditure in the Profit & Loss a/c. under the head "Green Leaf Cess" and claimed the same @ 100% as expenditure against manufacturing of tea. The ld. AO further held in his assessment order that cess is payable only upto the plucking stage of green leaf. Even if an assessee who has the activity of cultivation alone but no tea factory, has

to pay cess on green leaf, though its income is not chargeable to tax. Therefore, it is 100% agricultural expense. Hence, the contention of the assessee is not accepted. Besides this, a SLP has been filed by the department, which is pending before the Hon'ble Supreme Court against the above decision on this issue. Therefore, in order to maintain judicial consistency, the claim of the assessee is disallowed and expenses on green leaf cess is added back. Therefore, holding the same, the AO has disallowed the green leaf cess for assessment years 2007-08, 2008-09 and 2009-10.

2.1. Aggrieved from the order of the ld. AO, the assessee filed appeals before the Commissioner of Income Tax(A) – IV, Kolkata. The Commissioner of Income-Tax (Appeals) vide page 3 page 4 of his order wherein he held that assessee's appeal against the disallowance of claim for cess paid to the State Government on the quantity of green leaf plucked and consumed in manufacture of tea, income from which is determined in terms of rule 8 of the Income-tax Rule, 1962. This ground has already been decided in favour of the appellant. Following the decisions of the Hon'ble Calcutta High Court in the case of CIT-vs- AFT Industries Ltd., reported in 270 ITR 167 and also the decision of the ITAT in the case of assessee's own case vide its order dated 31.04.2010 in Appeal Nos.532 & 533, the appellant should have been allowed cess on green leaf by the AO. This claim has not been allowed by the AO on the reason that the department has filed an SLP against the decision of the Hon'ble Calcutta High Court and the same is pending in the Hon'ble Supreme Court should not be ground for disallowance of the appellant's claim. Therefore, he held that the appellant's claim is allowed and the AO is directed to allow deduction on account of cess derived by the appellant for cultivation and manufacturing of tea. Not being satisfied, the Revenue is in appeal before the Tribunal.

2.2. We noticed the stand of the Revenue which has mentioned in the Assessment Order that cess is payable only upto the plucking stage of green leaf. Green leaf is attributable to agricultural activities which is taxable under the state agricultural income tax beyond the purview of Central Income tax. Even if an assessee who has the activity of cultivation alone but no tea factory, has to pay cess on green leaf, though the income is not chargeable to tax. Therefore, it is 100% agricultural expenses. Hence, the contention of the assessee is not accepted. The ld. AOmentioned in his order that a Special Leave Petition on this account has been filed by the department and it is pending before the Hon'ble Supreme Court against the above decision on this issue. Therefore, in order to maintain judicial consistency, the claim of the assessee is disallowed and expenses on green leaf cess is added back.

2.3. The Ld. AR for the assessee vehemently submitted that this ground has already been decided in favour of the assessee and following the decision of the Hon'ble Calcutta High Court in the case of CIT-vs- AFT Industries Ltd. 270 ITR 167 and also the decision of the ITAT in assessee's own case vide its order dated 31st April, 2010 in Appeal Nos.532 & 533, the assessee should have been allowed cess on green leaf by the AO. He submitted that the Hon'ble Jurisdictional High Court in the case of CIT-AFT Industries Ltd. (*supra*), where the amount paid as cess was held as eligible for deduction in computing the composite income under Rule 8 of I.T. Rules. This issue is therefore, decided in favour of the assessee and against the Revenue by upholding the order of the CIT(A) who has allowed the deduction of payment of cess on green leaves in computing the composite income from tea business of the assessee under rule 8 of the Income Tax Rules. The fact that the Special leave Petition is pending before the Hon'ble Supreme Court

against the decision of the Hon'ble Calcutta High Court in respect of AFT Industries Ltd. –vs- CIT (*supra*) will not have any effect since the Hon'ble Apex Court has neither set aside the orders of the Hon'ble Calcutta High Court nor granted any stay. Therefore, in the present case under consideration , the claim has not been allowed by the AO on the reason that the department has filed a SLP against the decision of the Hon'ble Calcutta High Court and the same is pending in the Hon'ble Supreme Court. Such pendency of the SLP would not be the ground for disallowance of the assessee's claim.

2.4. Having heard the rival submissions, we noticed that there is merit in the submission of the ld. AR for the assessee, as the propositions canvassed by him are supported by the decision of the Hon'ble Calcutta High Court in the case of CIT-vs- AFT Industries Ltd. (*supra*) and the facts cited by him. As the AO did not allow this claim merely because the department has filed a SLP against the decision of the Hon'ble Calcutta High Court in the case of CIT-vs- AFT Industreis Ltd. (*supra*) and the same is pending in the Supreme Court. Such pendency of the SLP should not be the ground for disallowance of the assessee's claim. Therefore, we dismiss the appeals of the Revenue.

2.5. In the result, ground No.1 in ITA No.170/Kol/2014 for the assessment year 2007-08, ground No.1 in ITA No.171/Kol/2014 for assessment year 2008-09 and ground No.1 in ITA No.172/Kol/2014 for assessment year 2009-10,by the Revenue,are dismissed.

3. Ground No.2 of appeal of the Revenue in ITA No.170/Kol/2014 for the assessment year 2007-08 reads as under:

> "*That on the facts and circumstances of the case, the Ld. CIT(A) erred in acceptingthat the interest subsidy of Rs.28,24,072/- was income derived*

from manufacturing and production of tea instead of income from other sources as shown by the assessee in its return of income, ignoring the fact that since assessee did not file revised return, income shown in the original return could not be revised as decided by the Hon'ble Supreme Court in the case of 'Goetze India'.

3.1. Facts of this issue are stated in brief. We noticed that the assessment order under section 143(3) made by the AO does not speak anythingon this particular ground. This fresh issue has been raised by the assessee first time before the ld. CIT(A). The Revenue contested that the subsidy of Rs.28,24,072/- is taxable as income from other sources instead as a part of business income.

But the ld. CIT(A) held that the said subsidy is linked with cultivation and manufacturing of tea therefore it should be as income from cultivation and manufacturing of tea and not from income from other sources. The relevant para 6.1 and 6.2 at page 5 of the order of the CIT(A) read as follows:

> "*6.1 The A.R. of the appellant stated that the Appellant, during the year relevant to previous year, received Subsidy of Rs.28,24,072/- from the Government. The Appellant had paid Bank interest on the moneys borrowed and utilized for the purpose of cultivation and manufacture of Tea in excess of 10%. In respect of such excess, the Appellant, claimed and received Subsidy of Rs.28,24,072/-. The Appellant submits that there is no dispute that the amount of Subsidy received, is taxable as income of the Appellant u/s 41(1) of the Act. Further, the Appellant submits that deduction in respect of such interest has been allowed only in computing Appellant's income from cultivation and manufacture of Tea and therefore, such Subsidy should have also been considered by the Assessing Officer for the Appellant's income of Tea business. The Appellant submits that the Assessinq Officer should not have assessed the amount of the said Subsidy as Appellant's income from other sources.*
>
> *6.2 I find that the claim is logical and the same is, therefore, accepted. The Assessing Officer is directed to assess the Subsidy income as income from cultivation and manufacture of Tea and not from income of other sources and should not be taxed @ 100%.*

3.2. We noticed from the Assessment Order that this issue has not been raised by the assessee during the assessment proceedings under section 143(3) of the Act. The said fresh issue has been raised by the assessee first time before the Ld.CIT (A).The Assessee submitted before the Ld.CIT(A) that there is no dispute that the amount of Subsidy received, is taxable as income of the Assessee u/s 41(1) of the Act. Assessee also submitted that deduction in respect of such interest has been allowed only in computing Assessee's income from cultivation and manufacture of Tea. Therefore, having accepted the assessee`s submissions the, LdCIT(A) directed to the AO to treat the subsidy as business income of the assessee.

3.3. The ld. AR for the assessee has submitted that the assessee had paid bank interest on the money borrowed and utilised for the purpose of cultivation and manufacturing of tea in excess of 10% and in respect of such excess, the assessee claimed and received subsidy of Rs.28,24,072/-. The assessee submitted that there is no dispute of the amount on subsidy received, is taxable as income of the assessee under section 41(1) of the Act. Further, the assessee submitted that the deduction in respect of such interest has been allowed only in computing assessee’s income from cultivation and manufacture of tea and therefore, such subsidy should have also been considered by the AO for the assessee’s income of tea business. The ld. AR also submitted that the subsidy under consideration is a operative expenses/ direct expense of the business, therefore, it should be shown under the head ‘income from business or profession’ only. The ld. AR for the assessee has also submitted that it is always open for the assessee to raise new ground which was not raised by the assessee before the AO. The ld. AR for the assessee has also placed reliance of the judgement in CIT-vs- Sam Global Securities Ltd. delivered by the Hon’ble High Court at Delhi in Income Tax Appeal 214/2013, the relevant para of the said judgment are reproduced below:

"7. Reference was also made to an earlier decision of the Supreme Court in Jute Corporation of India Ltd. Vs. ClT, [1991] 187 ITR 688 (SC), wherein it has been held as under:-

> *"An appellate authority has all the powers which the original authority may have in deciding the question before it subject to the restrictions or limitations, if any, prescribed by the statutory provisions. In the absence of any statutory provision, the appellate authority is vested with all the plenary powers which the subordinate authority may have in the matter. There is no good reason to justify curtailment of the power of the Appellate Assistant Commissioner in entertaining an additional ground raised by the assessee in seeking modification of the order of assessment passed by the Income Tax Officer. This Court further observed that there may be several factors justifying the raising of a new plea in an appeal and each case has to be considered on its own facts. The Appellate Assistant Commissioner must be satisfied that the ground raised was bona fide and that the same could not have been raised earlier for good reasons. The Appellate Assistant Commissioner should exercise his discretion in permitting or not permitting the assessee to raise an additional ground in accordance with law and reason. The same observations would apply to appeals before the Tribunal also."*

8. Decision in the case of Goetze (India) Ltd. (supra) was distinguished in Jai Parabolic Springs Ltd. (supra) in the following words:-

> *"In Goetze (India) Ltd. Vs. CIT [2006] 284 ITR 323 (SC) wherein deduction claimed by way of a letter before the Assessing Officer, was disallowed on the ground that there was no provision under the Act to make amendment in the return without filing a revised return. Appeal to the Supreme Court, as the decision was upheld by the Tribunal and the High Court, was dismissed making clear that the decision was limited to the power of the assessing authority to entertain claim for deduction otherwise than by a revised return, and did not impinge on the power of the Tribunal."*

9. In CIT Vs. Natraj Stationery Products (P) Ltd., (2009) 312 ITR 222 reliance placed on Goetze (India) Ltd. (supra) by the Revenue was rejected, as the assessee had not made any "new claim" but had asked for re-computation of deduction under Section 80-1 B. The said decision may not

be squarely applicable but the Courts have taken a pragmatic view and not the technical view as what is required to be determined is the taxable income of the assessee in accordance with the law. In this sense, assessment proceedings are not adversarial in nature."

3.4. From the above cited facts and circumsatnces, we noticed merit in the submission of the ld. AR for the assessee, as the propositions canvassed by him are supported by the judgment rendered by the Hon'ble Delhi High Court in the case of CIT-vs- Sam Global Securities Ltd. (*supra*) and the facts narrated by him. The power of the Tribunal in dealing with appeals is expressed in the widest possible terms. The purpose of the assessment proceedings before the taxing authorities is to assess correctly the tax liability of an assessee in accordance with law. We do not see any reason to restrict the power of the Tribunal under section 254 only to decide the grounds which arise from the order of the Commissioner of Income Tax (Appeals). Both the assesses as well as the department have a right to file an appeal/ cross objection before the Tribunal. Therefore, based on the above cited reasoning, we do not intend to interfere in the findings of the ld. CIT(A) on this issue.

3.5 In the result, the appeal filed by the Revenue on this ground is dismissed.

4. In ITA No.171/Kol/2014 for the assessment year 2008-09, the ground No.2 reads as under:

"*That on the facts and circumstances of the case the Ld. CIT(A) erred in holding that the disallowances u/s 14A of Rs.58,15,187/- was not warranted as the nexus between expenses and except income was not established, ignoring the fact that applicability of rule 8D was w.e.f. A. Y. 2008-09 i.e. the assessment year in consideration.*"

4.1. The facts of the said issue are stated in brief. The ld. AO vide page No.5 of his assessment order has disallowed an amount under section 14A at

Rs.58,15,187/-. The AO held that the company must have incurred some expenditure for holding investment and for earning purely agricultural income. On estimate a sum of Rs. 1.0 lac. is disallowed under Rule 8D(2) (i). The AO also held that the assessee has incurred interest expenses proportionately to earn the exempt income and the same should be disallowed. The working of the disallowance as per Rule 8D(2)(ii) and Rule 8D(2)(iii) is reproduced below:

1) Gross Interest	(A) – Rs.2,38,99,779
2) Average value of Investments – ½ of [34405685 + 457629892]	(B) – Rs. 24,60,17,789
3) Average value of Assets ½ of [988792720 + 322164371]	(C) – Rs.1,81,09,57,091

$A \times \frac{B}{C} = 23899779 \times \frac{246017789}{1810957091}$ = Rs.44,85,098

0.5% of Average Investments = Rs.12,30,089
i.e. 'B' as above

Amount disallowable U/s 14A= Rs.58,15,187

4.2. The ld. CIT(A) has deleted the addition made by the AO, observing the followings:

> *"5.2. I have gone through the Assessment Order as well as the written submission of the A.R. of the appellant. While making disallowance under Rule 8D the only reasoning given by the A.O. at page No.5 of the Assessment Order is that the appellant company must have incurred some expenditure for holding investment and for earning purely agricultural income. No attempt has been made by the A.O. to establish linkages and nexus between the exempted earned and the expenditure incurred. Such a finding is essential if the A.O. intends to invoke Sec. 14A read with Rule 8D. Several case laws have held that invocation of Sec. 14A read with Rule 8D is not automatic. I also find that in the present case the Assessing Officer has not recorded any satisfaction with regard to the provision of section 14A read with Rule 8D. Consequently in view of the decision of jurisdictional Tribunal in case of BalarampurChinni Mills Ltd., referred to by the A.R. of the appellant, the provision of section 14A cannot be invoked. The A.R. of the*

appellant has also brought on record that the appellant company had sufficient own funds in its Share Capital and Reserve and Surplus to finance its investments. In fact from the Balance Sheet it is clear that most of the investment has come to the ownership of the appellant as a result of merger/amalgamation scheme. The A.O. has also not brought on record any diversion of Interest bearing Capital towards investment in shares. Under these circumstances, I am of the opinion that disallowance of Rs. 58,15,187/- by invoking Rule 8D is not legally tenable and should be deleted."

Aggrieved, from the order of the Ld.CIT (A), the Revenue is in appeal before us.

4.3 We have gone through the assessment order and noticed the stand taken by the Assessing officer, which we have already noted in earlier para and the same is not being repeated for the sake of brevity.

4.4 First of all, as we noticed that the calculation of average value of the assets is wrong.It should be Rs.65,54,78,545 { ½ of [988792720 + 322164371]} instead of Rs.1,81,09,57,091/-. This mistake has impact on the entire calculation of disallowance under Rule 8D.The ld. AR for the assessee has submitted that while making disallowance under rule 8D, only reason given by the AO is that the assessee company must have incurred some expenses for holding investment and for earning purely agriculture income. The AO failed to establish linkage and nexus between the exempt income and the expenditure incurred by the assessee. Such a finding is essential if the AO intends to invoke section 14A read with rule 8D. The ld. AR also stated that the AO has not recorded any satisfaction with regard to provision to section 14A read with rule 8D. Therefore, in view of the decision of the Hon'ble Jurisdictional Tribunal in case of BalarampurChini Mills Ltd. (Supra), the provision of section 14A cannot be invoked. The ld. AR also explained that the assessee company had sufficient own funds in its share capital and reserve to finance its investments. In fact, from the balance-sheet it is clear that

most of the investment has come to the company as a result of merger scheme and own funds.

4.5. We have gone through the facts and circumstances of the case and perused the material available on record. We noticed merit in the submissions of the ld. AR for the assessee, as the propositions canvassed by him are supported by the decision of the Jurisdictional Tribunal in case of Balarampur Chini Mills Ltd (supra), and the facts narrated by him. As the assessee had sufficient own funds to finance its investment and the AO failed to establish the linkage and the nexus between exempt income and the expenditure incurred by the assessee. Apart from this, the AO has not recorded any satisfaction with regard to provision of section 14A read with rule 8D. Therefore, we are of the view that the addition made by the AO under rule 8D (2)(ii) Rs.44,85,098/- should be deleted. So far the addition by the ld. AO under rule 8D(2)(iii) at Rs.12,30,089/- is concerned, it is towards general and administrative expenses which normally a company incurs while making investment decision. In the investment decisions, the Board of Directors of the companies are involved and the finance department is also involved therefore, there should be some expenditure. Therefore, there are certainly some expenses which the company might have incurred to earn the exempt income. Therefore, the disallowance made by the ld. AO under rule 8D (2) (i) Rs. 100,000/- and Under Rule 8D(2)(iii) at Rs.12,30,089/- is confirmed by us and the addition made under rule 8D(2)(ii) amounting to Rs.44,85,098/- is deleted.

4.6. In the result, the appeal filed by the Revenue on this issue is partly allowed.

5. In C.O. No.20/Kol/2014 arising out of ITA No.170/Kol/2014 and C.O. No.21/Kol/2014 arising out of ITA No.171/Kol/2014, the ground raised by the assessee reads as under:

"*That on the facts and circumstances of the case, the ld. CIT(A) erred in rejecting the Appellant's claim for deduction u/s 80IC of the Act.*"

5.1. Facts of this issue are stated in brief. First of all, as we have noticed that this issue has not been discussed by the AO in the assessment order, for A.Y.2007-08. But for A.Y.2008-09 the Assessing Officer has discussed this issue in his assessment order, in last para, observing the followings:

"*The assessee`s claim for deduction U/s 80-IC of the Act is rejected following the decision of the Income Tax Appellate Tribunal in assessee`s case for the assessment years 2004-2005 and 2005-2006 under ITA No.110 & 401/Kol/2010.*"

Aggrieved from the order of the Assessing Officer, the assessee filed an appeal before the Ld.CIT(A) IV, Kolkata. The ld. CIT(A) vide para 7 of his order has rejected the assessee's claim, observing the followings:

"*7. Ground No.5 is that the Assessing Officer should not have rejected the Appellant's claim U/s 80-IC of the Act. The Assessing Officer rejected the Appellant's claim following the Orders of the assessment years 2004-05, 2005-06 & 2006-07. Such disallowances have been confirmed. I, therefore, hold that the Assessing Officer was justified in rejecting the Appellant's claim for deduction U/s 80IC of the Act.*"

5.2. The ld. AR for the assessee has submitted that the assessee under consideration is entitled to claim the deduction under section 80IC of the Act, however, the assessee has not raised this issue before the Assessing Officer. He also submitted that purpose of the assessment proceedings is to assess correct income of the assessee as per the Income Tax Act, and therefore the assessee may raise new issue before the appellate authorities.The ld. AR for the assessee also relied on the case laws in the case of CIT-vs- Sam Global Securities Ltd. by the Hon'ble High Court at Delhi in Income Tax Appeal 214/2013.

5.3. We noticed that there is merit in the submission of the ld. AR for the assessee as he explained that it is open for the assessee to raise a new issue before the appellate authorities which was not raised by him before the ld. AO. After all, the purpose of the assessment proceedings for the taxing authorities is to assess correctly the tax liability of the assessee in accordance with law. The ld. AR for the assessee also relied on the case laws in the case of CIT-vs- Sam Global Securities Ltd. by the Hon'ble High Court at Delhi in Income Tax Appeal 214/2013, the relevant para of the said judgment are reproduced below:

> *"7. Reference was also made to an earlier decision of the Supreme Court in Jute Corporation of India Ltd. Vs. CIT, [1991] 187 ITR 688 (SC), wherein it has been held as under:-*
>
> > *"An appellate authority has all the powers which the original authority may have in deciding the question before it subject to the restrictions or limitations, if any, prescribed by the statutory provisions. In the absence of any statutory provision, the appellate authority is vested with all the plenary powers which the subordinate authority may have in the matter. There is no good reason to justify curtailment of the power of the Appellate Assistant Commissioner in entertaining an additional ground raised by the assessed in seeking modification of the order of assessment passed by the Income Tax Officer. This Court further observed that there may be several factors justifying the raising of a new plea in an appeal and each case has to be considered on its own facts. The Appellate Assistant Commissioner must be satisfied that the ground raised was bona fide and that the same could not have been raised earlier for good reasons. The Appellate Assistant Commissioner should exercise his discretion in permitting or not permitting the assessee to raise an additional ground in accordance with law and reason. The same observations would apply to appeals before the Tribunal also."*
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> *8. Decision in the case of Goetze (India) Ltd. (supra) was distinguished in Jai Parabolic Springs Ltd. (supra) in the following words:-*
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> > *"In Goetze (India) Ltd. Vs. CIT [2006] 284 ITR 323 (SC) wherein deduction claimed by way of a letter before the Assessing Officer, was disallowed on the ground that there was no provision under the Act to*

make amendment in the return without filing a revised return. Appeal to the Supreme Court, as the decision was upheld by the Tribunal and the High Court, was dismissed making clear that the decision was limited to the power of the assessing authority to entertain claim for deduction otherwise than by a revised return, and did not impinge on the power of the Tribunal."

9. In CIT Vs. Natraj Stationery Products (P) Ltd., (2009) 312 ITR 222 reliance placed on Goetze (India) Ltd. (supra) by the Revenue was rejected, as the assessee had not made any "new claim" but had asked for re-computation of deduction under Section 80-1B. The said decision may not be squarely applicable but the Courts have taken a pragmatic view and not the technical view as what is required to be determined is the taxable income of the assessee in accordance with the law. In this sense, assessment proceedings are not adversarial in nature."

5.4 Therefore, we find it appropriate to set aside this issue to the file of the AO to re-consider the same, after due examination as per the discussion (supra). In the result, the Cross Objections filed by the assessee are allowed for statistical purposes.

5.5. In the result, the appeals of the Revenue in ITA Nos.170/Kol/2014 & 172/Kol/2014 are dismissed and appeal in ITA No.171/Kol/2014 is partly allowed whereas the Cross Objections filed by the assessee are allowed for statistical purposes.

Order Pronounced in the Open Court on 19-08-2016

Sd/-	**Sd/-**
(N.V.Vasudevan)	**(Dr. A.L.Saini)**
JudicialMember	**Accountant Member**

Dated: 19/8/2016

Talukdar (Sr.PS)

Copy of the order forwarded to:

1. Revenue
2 Assessee
3. The CIT-I,
4. The CIT(A)-I,
5. DR, Kolkata Benches, Kolkata

True Copy,

By order,

Asst. Registrar**,** ITAT, Kolkata Benches