

**IN THE INCOME TAX APPELLATE TRIBUNAL “A” BENCH KOLKATA**

**BEFORE SHRI RAJPAL YADAV, VICE PRESIDENT  
AND SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA No.339/Kol/2022  
Assessment Year: 2013-14**

The Jute Corporation of India Ltd. 7 <sup>th</sup> floor, Hudco Building, 15N, Nellie Sengupta Sarani, Kolkata- 700087. (PAN: AABCT8820B)	Vs.	Deputy Commissioner of Income Tax, Circle-1(2), Kolkata.
<b>(Appellant)</b>		<b>(Respondent)</b>

**Present for:**

Appellant by : Shri Vivek Jalan, FCA

Respondent by: Shri S. Dutta, CIT, DR

Date of Hearing : 11.10.2023

Date of Pronouncement : 28.11.2023

**ORDER**

**PER GIRISH AGRAWAL, ACCOUNTANT MEMBER:**

This appeal filed by the assessee is against the order of Ld. CIT(A), NFAC, Delhi vide order no. ITBA/NFAC/S/250/2021-22/1037721698(1) dated 13.12.2021 passed against the assessment order by DCIT, Circle-1(2), Kolkata u/s. 143(3) of the Income-tax Act, 1961 (hereinafter referred to as the “Act”), dated 08.02.2016, for AY 2013-14.

2. There is a delay of 114 days. Assessee has placed on record a petition for condonation of delay. The order of Ld. CIT(A) is dated 13.12.2021. Assessee has filed its appeal on 07.06.2022. In the computation for condonation of delay, assessee has stated that its tax matters were handled by a counsel, who after a prolonged period of

sickness, expired. Since the said counsel was entrusted with the tax related matters including filing of appeal, could not do so and only after his death that the assessee came to know about the pendency of filing of this appeal. Necessary steps were immediately taken by the assessee by engaging a new counsel and appeal was filed. Considering the facts and circumstances of the case, we find it proper to condone the delay of 114 days and take up the appeal for its adjudication.

3. The present appeal before us is against the order passed by Ld. AO u/s. 154 read with section 143(3) of the Act dated 08.10.2018. Initially the assessment was completed u/s. 143(3) of the Act dated 08.02.2016. Assessee is in appeal before the Tribunal against the order passed u/s. 154 read with 143(3) wherein the Ld. AO had noted that there is no MAT credit available for adjustment amounting to Rs.1,35,18,672/- which has been wrongly allowed while completing the assessment and passing the order dated 08.02.2016. In the ground of appeal before the Tribunal, assessee has challenged the addition in respect of provision for gratuity contribution as well as for prior period income which are not issues in the impugned order passed u/s. 154 r.w.s. 143(3) of the Act. In the rectification order, Ld. AO has raised the issue only in respect of claim of MAT credit which he has rectified as not allowable to the assessee. Accordingly, out of the three grounds of appeal taken by the assessee, ground nos. 1 and 2 relating to provisions of gratuity contribution and prior period income are dismissed. Ld. Counsel of the assessee submitted that assessee is in appeal on these two issues against the original assessment order dated 08.02.2016 which is pending for disposal. Thus, these issues are to be decided in the said pending appeal. The only relevant ground in the appeal before the Tribunal is ground no. 3

whereby assessee has claimed that Ld. AO has not allowed the adjustment of MAT credit of Rs.1,35,18,672/- of earlier years.

4. Brief facts of the case are that assessee company is engaged in the wholesale trade of cotton and Jute in the states of West Bengal, Assam, Orissa, Andhra Pradesh, Bihar, and Tripura. Assessee filed its original return of income on 27.09.2013 declaring a total income of Rs. 17,79,09,683/-. Assessment order was passed by the Ld. D.C.I.T, Circle 1(2), Kolkata u/s 143(3) of the Act on 08.02.2016 for the A.Y. 2013-14 completing the assessment at the income of Rs.24,17,71,980/- and creating a demand of Rs. 2,22,78,380/- after disallowing prior period income amounting to Rs. 1,71,121/- and disallowing the claim of deduction amounting to Rs. 6,45,36,011/-. Aggrieved by the said order assessee had filed an appeal before the Ld. CIT(A).

4.1. Subsequently, Ld. Assistant Commissioner of Income Tax, Circle 1(2), Kolkata passed an order u/s 154/143(3) of the Income Tax Act, 1961 on 08.10.2018 for the A.Y. 2013-14 completing the assessment at the income of Rs.24,17,71,980/- and creating a demand of Rs.1,95,45,270/- considering MAT credit of Rs. 1,35,18,672/- which was allowed wrongly in the order dated 08.02.2016 u/s 143(3) of the Act.

4.2. Aggrieved by the said order issued u/s 154/143(3) of the Act, on 08.10.2018, the assessee had filed an appeal before the Ld. CIT(A). The Ld. CIT(A) had dismissed the appeal. Being aggrieved with the said order, assessee has preferred an appeal before the Tribunal.

5. Before us, Ld. Counsel submitted on the disallowance of benefits/adjustment of MAT credit of Rs.1,35,18,672/- of the earlier years that Form 29B dated 29.09.2012 for the A.Y. 2012-13 clearly

shows that the Income tax as per Act is Rs. 1,27,87,479/- whereas as per MAT is Rs.2,63,06,151/-. Hence, there is MAT credit for the period A.Y. 2012-13 of Rs.1,35,18,672/-. Form 29B is enclosed in the paper book. According to the Ld. Counsel, Ld. AO for the A.Y. 2012-13 in order u/s 143(3) dated 31.03.2015 has inadvertently taken total income of Rs. 15,78,89,773/- and therefore has erred. The matter was confirmed by CIT(A) vide order dated 23.02.2018. He pointed that ITAT vide order dated 07.12.2020 allowed the appeal for statistical purpose restoring the matter to Ld. CIT(A) for further adjudication. The matter is pending in that forum.

5.1. Ld. Counsel referred to annexure A of Form No. 29B for AY 2012-13 to demonstrate that MAT credit existed and has been duly certified by the Chartered Accountant by referring to point no. 6 and point no. 13 of the said annexure whereby the difference comes to Rs.1,35,18,672/-. Scan copy of the same is reproduced for ease of reference.

6.	Income – tax payable on total income	:	Rs 1,27,87,479/-
7.	Whether profit and loss account is prepared in accordance with the provisions of Part II and III of Schedule VI to the Companies Act, 1956 (1 of 1956)	:	YES
8.	Whether the profit and loss account referred to in column 7 above has followed the same accounting policies, accounting standards for preparing the profit and loss account and the same method of rates for calculating depreciation as have been adopted for preparing accounts laid before the company at its annual general body meeting ? If not, the extent and nature of variation be specified.	:	YES
9.	Net profit according to profit and loss account referred to in (7) above	:	Rs. 14,21,95,411/-
10.	Amount of net profit as shown in profit and loss account as increased by the amounts referred to in clauses (a) to (f) of <i>Explanation</i> of sub – section 2 of this section.	:	Rs. 14,21,95,411/-
11.	The amount as referred to in item 10 as reduced by the amounts referred to in clauses (i) to (vii) of <i>Explanation</i> of sub – section 2 of this section. (File working separately, where required)	:	Rs. 14,21,95,411/-
12.	Book profit as computed according to <i>Explanation</i> give in sub – section (2)	:	Rs. 14,21,95,411/-
13.	18.50% of 'book profits' as computed in 12 above	:	Rs.2,63,06,151/-

5.2. In the course of hearing, the Bench had directed the counsel to furnish chronology of events so as to understand the status of orders passed by the authorities below. The chronology of event is tabulated as under:

Serial No.	Date	Events	Particulars/Remarks
1	27.09.2013	Filing of ITR-6	-
2	08.02.2016	Assessment Order u/s 143(3)	<b>Disallowed:</b> 1. Prior period income – 1,71,121/- 2. Deduction for gratuity -6,30,50,751/- (Wrongly mentioned as 6,45,36,011/-)
3	13.04.2016	Appeal to CIT(A) against assessment order u/s 143(3) dated 08.02.2016	<b>Grounds for relief regarding:</b> 1. Prior period income- 1,71,121/- 2. Deduction for gratuity-6,30,50,751/-
4	08.10.2018	Assessment Order u/s 154/143(3)	<b>Disallowance of MAT Credit availed in the Return of Income:</b> MAT Credit- 1,35,18,672/-
5	14.11.2018	Appeal to CIT(A) against assessment order u/s 154/143(3)	<b>Grounds for relief regarding:</b> MAT Credit- 1,35,18,672/-

6	13.12.2021	Order by CIT(A) for appeal filed against assessment order u/s 154/143(3) dated 14.11.2018	<b>Dismissed claim of MAT Credit:</b> MAT Credit- 1,35,18,672/-
7	07.06.2022	Appeal before Hon'ble ITAT against order by CIT(A) passed on 13.12.2021	<b>Grounds for relief regarding:</b> MAT Credit- 1,35,18,672/-
8	15.06.2022	Order by CIT(A) for appeal filed against assessment order u/s 143(3) dated 08.02.2016	<b>Dismissed matter regarding:</b> Prior period income – 1,71,121/- <b>Remand back to A.O matter regarding:</b> Deduction for gratuity-6,30,50,751/-

5.3. Ld. Counsel also referred to a written submission placed on record on 20.12.2022 wherein copy of Form 26AS is enclosed in respect of claim of MAT credit. He thus, submitted that assessee is entitled to MAT credit available to it from the earlier year and, therefore, the Ld. AO be directed to allow the credit for the same.

6. Per contra, Ld. CIT, DR submitted that no MAT credit was available to be allowed as assessee could not evidently demonstrate such availability by furnishing supporting evidence.

7. We have heard rival contentions and perused the material available on record. The claim of assessee in respect of MAT credit pertains to AY 2012-13 for which form No. 29B along with annexure "A" is placed on record in the paper book to demonstrate availability of MAT credit. We also note that proceeding for AY 2012-13 has not attained finality since the Co-ordinate Bench of ITAT had remanded the same to the file of Ld. CIT(A) for afresh appropriate adjudication. We also take note of the observation made by Ld. CIT(A) who has dismissed this claim of the assessee by holding that assessee has not furnished all the relevant supporting documents and evidence for the payment of tax to claim MAT credit. Before us, Ld. Counsel has pointed out that Form 26AS is furnished for the claim of MAT. Considering the above facts and the pendency of proceeding for AY 2012-13 which has a direct bearing on the claim of MAT credit by the assessee, we find it proper to remit the matter on this issue back to the file of Ld. AO to verify the records in respect of claim of MAT credit and allow the same in accordance with the provisions of law. Needless to say that assessee be given reasonable opportunity of being heard and to furnish all the relevant documentary evidence in support of its claim. Accordingly, ground no. 3 taken by the assessee is allowed for statistical purpose.

8. In the result, appeal of the assessee is partly allowed for statistical purposes.

Order is pronounced in the open court on 28th November, 2023

Sd/-  
(Rajpal Yadav)  
Vice President

Sd/-  
(Girish Agrawal)  
Accountant Member

***Dated: 28th November, 2023***

JD, Sr. P.S.

Copy to:

1. The Appellant:
  2. The Respondent:.
  3. CIT(A), NFAC, Delhi
  4. CIT
  5. DR, ITAT, Kolkata Bench, Kolkata
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By Order

Assistant Registrar  
ITAT, Kolkata Benches, Kolkata