

**IN THE INCOME TAX APPELLATE TRIBUNAL,
'G' BENCH MUMBAI**

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER
&
MS. PADMAVATHY S, ACCOUNTANT MEMBER**

**ITA No.5528/M/2024
(Assessment Year :2018-19)**

GEBBS Healthcare Solutions Private Limited 1 st Office Level, Bldg. No. 3, Mindspace, Airoli S.O. Navi Mumbai, Thane 0 400708.	Vs.	DCIT (1)(3)(1) Aayakar Bhawan, Mumbai.
PAN/GIR No.AALCS4978H		
(Appellant)	..	(Respondent)

Assessee by	Shri Ravikant S. Pathak – C.A.
Revenue by	Shri BhangapatilPushkaraj Ramesh- Sr. AR.
Date of Hearing	12/12/2024
Date of Pronouncement	31/12/2024

आदेश / O R D E R

PER AMIT SHUKLA (J.M):

The aforesaid appeal has been filed by the assessee against order dated 19/09/2024 passed by Addl. / JCIT (A)-2, Vadodara in relation to the adjustment made u/s.143(1) for the A.Y.2018-19.

2. In the grounds of appeal assessee has raised following grounds:-

“1. (a) The Hon'ble Additional/Joint Commissioner of Income Tax (Appeal) - 2, Vadodara (hereinafter referred as 'CIT(A)') erred in confirming the action of the Deputy Commissioner of Income Tax, Central Processing Centre (CPC) Bengaluru (hereinafter referred as "AO") in making the addition of Rs. 1,07,26,763/-being reversal of deferred tax to book profit computed as per section 115JB of the Income Tax Act, 1961 (Act).

(b) The CIT(A) erred in confirming the action of AO without considering facts and provisions of the law explained in submission uploaded on 27/08/2024 on the income tax portal.

(c) The CIT(A) erred in confirming the action of the AO in making the above addition without appreciating that the Appellant's case was selected for scrutiny assessment and assessment order has been passed accepting the returned book profit u/s 115JB of the Act.

The Appellant submits that the action of CIT(A) in confirming addition made by the AO to the book profit computed as per section 115JB of the Act is contrary to the fact on record and provision of the law. Therefore, the addition to book profit made by the AO and confirmed by the CIT(A) shall be deleted.”

3. At the outset, ld. Counsel submitted that here in this case already assessment u/s. 143(3) has been passed accepting the 'returned income' as 'assessed income' and the computation done by the ld. AO in the order passed u/s. 143(3) is from returned income and income has not been computed taking into account adjustment made u/s. 143(1), that is, adjustment has not been carried forward in the regular assessment order u/s.143(3). Thus, intimation gets merged with regular

assessment because in full scrutiny assessment no such addition or disallowance or adjustment has been made, then no adjustment can be made u/s.143(1) as it gets merged in the order u/s.143(3). For the sake of ready reference, the relevant chronology of events is as under: -

Sr. No.	Date	Particulars
1.	29-11-2018	Assessee filed return of income u/s 139 of the Income Tax Act, 1961 ("Act") for the Assessment Year 2018-19.
2.	16-02-2019	Proposed adjustment u/s 143(1)(a) of the Act communicated to the assessee proposing adjustment on account of (a) exempt income (b) deduction claimed u/s 10AA (c) Deduction claimed u/s 43B and section 36(1)(va) of the Act.
3.	08-03-2019	Assessee filed revised return of income u/s 139(5) of the Act in response to communication of proposed adjustment dated 16/02/2019
4.	10-05-2019	Proposed adjustment u/s 143(1)(a) of the Act communicated to the assessee subsequent to the filing of revised return u/s 139(5) of the Act proposing adjustment on account of variance in claim u/s 10AA of the Act.
5.	04-06-2019	Assessee filed the response to proposed Adjustment u/s 143(1)(a) of the Act by opting for reprocessing of the revised return filed by the assessee.
6.	15-11-2019	Intimation issued u/s 143(1) of the Act making addition to book profit computed u/s 115JJB for deduction of deferred tax credited to profit & loss a/c.
7.	22-09-2019	Notice issued u/s. 143(2) of the Act.
8.	09-03-2021	Assessment order passed u/s 143(3) of the Act by the AO accepting the returned income as assessed income.

4. After hearing both the parties we find that, first of all, deferred tax was never the subject matter of proposed adjustment either in the first intimation dated 16/02/2019 or in second intimation issued on 10/05/2019. This adjustment has been made in the final intimation and that too without giving any opportunity of hearing or show-cause notice to the assessee. Apart from that, it is seen that the assessee's case was selected for complete scrutiny and in the assessment order passed u/s. 143(3), the returned income has been accepted. From the perusal of the assessment order, it is seen that ld. AO has computed the income as per return of income and not as per the adjustment made u/s. 143(1). The returned income of Rs.18,60,67,160/- has been assessed at the same income of Rs.18,60,67,160/-. Thus, any adjustment made in Section 143(1) does not survive and it becomes infructuous. Accordingly, adjustments made u/s. 143(1) stands deleted.

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

Order pronounced on 31st December, 2024.

Sd/-
(PADMAVATHY S)
ACCOUNTANT MEMBER

Mumbai; Dated 31/12/2024
KARUNA, *sr.ps*

Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,

(Asstt.Registrar)
ITAT, Mumbai