



ITA No.1154/Bang/2024  
CO 28/Bang/2024  
Microland Limited, Bangalore

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

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER  
AND  
SHRI KESHAV DUBEY, JUDICIAL MEMBER**

ITA No.1154/Bang/2024

Assessment Year: 2023-24

DCIT Circle-4(1)(1) Bangalore	<b>Vs.</b>	Microland Limited 1B, Ecospace, 2 <sup>nd</sup> Floor Outer Ring Road Bellandur Bellandur SO Bangalore Karnataka 560 103  <b>PAN NO :AABCM2704P</b>
<b>APPELLANT</b>		<b>RESPONDENT</b>

CO No.28/Bang/2024  
(Arising out of ITA No.1154/Bang/2024)  
Assessment Year: 2023-24

Microland Limited Bangalore Karnataka 560 103	<b>Vs.</b>	DCIT Circle-4(1)(1) Bangalore
<b>APPELLANT</b>		<b>RESPONDENT</b>

<b>Assessee by</b>	:	Sri B.K. Manjunath, A.R.
<b>Revenue by</b>	:	Ms. Neera Malhotra, D.R.

<b>Date of Hearing</b>	:	23.10.2024
<b>Date of Pronouncement</b>	:	15.01.2025

**O R D E R**

**PER KESHAV DUBEY, JUDICIAL MEMBER:**

This appeal and cross objection are directed against the order of the Id. ADDL/JCIT(A)-2, Chennai dated 12.04.2024 vide DIN & Order No. ITBA/APL/S/250/2024-25/1064061680(1) for the Assessment Year 2023-24 passed u/s. 250 of the Income Tax Act, 1961 (in short “The Act”).

2. The revenue has raised the following grounds of appeal:


*1. That the Ld. Addl. CIT(A) has erred in facts and in law by stating that denial of deduction under section 80JJAA lacks validity without discussing the case on merits on the basis of documentary evidences.*

*2. That the Ld. Addl. CIT(A) has erred in facts and in law by stating that the adjustment made by the AO(CPC) adding back the negative amount of Rs. 14,37,45,699/- is not justifiable Besides such adjustments are not permissible under section 143(1) of the I.T Act without discussing the case on merits on the basis of documentary evidences*

**2.1** The assessee has raised the following grounds of appeal in its cross objection:

1. That the orders of the Learned Authorities below in so far as it is against the respondent is against the law, facts, circumstances, natural justice, without jurisdiction, bad in law and all other known principles of law.
2. That the Learned CIT- Appeals (NFAC) erred in not appreciating that the intimation passed u/s 143(1) of the Act is in violation of the provisions of section 143(1)(a) of the Act being not as per law and bad in law ought to have quashed / cancelled the intimation.
3. That the Learned CIT- Appeals (NFAC) erred in not appreciating that no opportunity as required under the proviso to section 143(1)(a) of the Act was provided before making adjustments u/s.143(1) of the Act, thus the adjustments made were not as per law and bad in law ought to have quashed / cancelled the intimation.
4. For the above and other grounds and reason which may be adduced during the course of hearing of this appeal, the respondent requests that the appeal be allowed as prayed and justice be rendered.

3. There is a delay of 1 day in filing the appeal before this Tribunal by the revenue. The Id. D.R. for the revenue has drawn our attention on the application for condonation of delay filed by the Id. DCIT, Circle-4(1)(1), Bangalore, which is reproduced below for ease of reference & convenience:-

 आयकर विभाग	उपआयकर आयुक्त कार्यालय, सर्कल-4 (१) (१) OFFICE OF THE DY. COMMISSIONER OF INCOME TAX, Circle-4(1)(1) कमरानंबर 230, दूसरी मंजिल, बीडिपो . सी . टी . एम ., छठा ब्लाक, बेंगलुरु- ५६००९५ Room No.-230, 2nd Floor, BMTC Depot, 6th Block, BENGALURU-560 095 Phone & Fax : 080-25625534, Mail id: Bangalore.dcit4.1.1@incometax.gov.in
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फा. सं./F.No. ITAT/2<sup>nd</sup> Appeal/DCIT-C-4(1)(1)/BLR/2024-25      दिनांक/Dated: 24.06.2024

To,

The Asst. Registrar,  
Income Tax Appellate Tribunal,  
No. 51, Behind Jal Bhavan, 1<sup>st</sup> Cross, 4<sup>th</sup> T Block  
Tilak Nagar, Jayanagar,  
Bangalore-560041

Sir / Madam,


**Subject:** Request seeking condonation of delay in filing of appeal to the Hon'ble ITAT in the case of **M/S. MICROLAND LIMITED for 2023-24** against the order of the ADDL/JCIT (A)-2 CHENNAI in ADDL/JCIT (A)-2 CHENNAI/10010/2022-23 dated 12.04.2024 – Regarding

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Kindly refer to the above cited subject.

- The condonation of delay may kindly be granted for filing of second appeal before the Hon'ble ITAT in the case of M/S. MICROLAND LIMITED for 2023-24 against the order of the ADDL/JCIT (A)-2 CHENNAI in ADDL/JCIT (A)-2 CHENNAI/10010/2022-23 dated 12.04.2024, for the unintentional and unavoidable reasons mentioned hereunder:
- The delay of **01 day** in filing of appeal before the ITAT was due to reshuffling of staffs due to Annual General Transfer (AGT) in the department. Further, it is pertinent to mention this office was under additional charge because regular officer was on official training..
- As such, under the circumstances, I pray for the condonation of delay (01 day) in filing of appeal before the Hon'ble ITAT in the said case for the A.Y. 2023-24

Yours faithfully,

  
(VARUN JAT, IRS)  
Dy. Commissioner of Income-tax  
Circle -4(1)(1), Bengaluru.

Copy submitted for kind information to:

- The Pr. Commissioner of Income-tax, Bangalore-2, Bangalore
- The Addl. Commissioner of Income-tax, ITAT-2, No 51, Behind Jal Bhavan, 1st Cross 4th T Block, East, Tilak Nagar, Jayanagar Bengaluru-560041.
- The Addl. Commissioner of Income-tax, Range-4(1), Bangalore

3.1 On going through the above application, the main reason as cited for the delay in filing the appeal before this Tribunal by the revenue is reshuffling of staffs due to Annual General Transfer (AGT) in the department and further, since the office of DCIT was under additional charge because regular officer was on official training, hence the delay of one day occurred. Considering the fact

that it is a case of short delay of just 1 day, we hereby condone the delay and proceed to decide the matter in the interest of justice.

4. Brief facts of the case are that the assessee company engaged in the business of providing IT Infrastructure management services, Technical Support services etc. The assessee filed its original income tax return for the Assessment Year (A.Y) 2023-24 on 30.11.2023 declaring a total income of Rs. 1,54,57,78,798/- with Tax Liability of Rs. 35,45,45,411/-. Subsequently, the assessee filed a revised return of income on 22.12.2023 admitting total income of Rs. 1,54,57,78,798/- with a tax liability of 35,26,36,341/- and accordingly claimed refund of Rs. 19,09,070/-. Thereafter, the original return of income has been processed u/s. 143(1) of the Act on 22.12.2023 by making the following adjustments:

- (a) ICDS adjustment of Rs. 14,37,45,699/- has been added back &
- (b) Denial of deduction under section 80JJAA amounting to Rs. Rs.1,12,46,618/- as claimed by the assessee.

5. Aggrieved by the intimation dated 22.12.2023 passed u/s. 143(1) of the Act, the assessee has preferred an appeal before the Id. ADDL/JCIT(A) disputing the demand of Rs.4,45,39,630/- as raised.

6. The Id. ADDL./JCIT (A)-2, Chennai has allowed the appeal of the assessee by observing that the ICDS adjustments were made under the head ICDS-I & ICDS-VI relates to accounting policies and changes in the exchange rates. As per adjustment, the net negative effect of Rs. 14,37,45,699/- was considered by the appellant while computing total income for the AY 2023-24, the relevant Col. No. 13(e) of Form 3CD for the AY 2023-24. The Id. ADDL./JCIT (A)-2, Chennai is of the opinion that as the appellant has reported the



necessary adjustments under Col. No. 13(e) of the audit report disclosing the necessary ICDS adjustments, the adjustment made by the AO (CPC) adding back the negative amount of Rs. 14,37,45,699/- is not justifiable. Besides such adjustments are not permissible under section 143 (1) of the I.T. Act without any valid reasons and accordingly, directed the Jurisdictional Assessing Officer (JAO) to delete the above addition of Rs. 14,37,45,699/-.

**6.1** Further, with regard to the denial of deduction under section 80JJAA of the Act amounting to Rs. Rs.1,12,46,618/-, the Id. ADDL./JCIT (A)-2, Chennai noted from the original income tax return filed for A.Y. 2023-24 on 30.11.2023, that the appellant has opted for the concessional tax regime under section 115BAA of the IT Act, as indicated in the Col No. (e) of the “Filing Status”. Furthermore, it is observed that the appellant had previously opted for concessional tax regime based on Form 10IC filed in the assessment year 2020-21, acknowledged under ack no. 254965001130221 dated 13.02.2021. The appellant’s choice was duly accepted by the AO (CPC) while processing the return of income under section 143(1) for the AY 2023-24. However, despite this, the AO (CPC) denied the appellant’s claim for deduction under section 80JJAA amounting to Rs. 1,12,46,618/- for the AY 2023-24 without providing valid reasons. Since the appellant filed the original return of Income for the AY 2023-24 before the extended due date of 30.11.2023, therefore the denial of deduction u/s. 80JJAA of the Act lacks validity.

7. Aggrieved by the order of the Id. ADDL./JCIT (A)-2, Chennai the Revenue has filed the present appeal and the assessee has also filed a Cross Objection before us.

8. Before us, the Id. DR from the Revenue vehemently submitted that without discussing the merits on the basis of documentary evidence, the allowability of deduction u/s. 80JJAA lacks validity. Further, the Id. DR submitted that without discussing the case on merit on the basis of documentary evidences, the Id. ADDL. CIT (A) erred in facts and in law by holding that the adjustment made by the CPC adding back the negative amount of Rs.14,37,45,699/- is not justifiable.

9. The Id. AR of the assessee on the other hand vehemently submitted that the intimation passed u/s. 143(1) of the Act is in violation of the provisions of sec. 143(1)(a) of the Act and accordingly, illegal and bad in law. Further, the AR submitted that no opportunity of being heard was provided before making adjustment u/s. 143(1) of the Act which is a gross violation of principle of natural justice and accordingly, prays to quash the intimation passed u/s. 143(1) of the Act.

10. We have heard the rival submissions and perused the material on record. The main contention of the revenue in their appeal is that the Id. ADDL. CIT(A), lacks validity in allowing the appeal of the assessee without discussing the case on merit on the basis of documentary evidences. It is an undisputed fact that the assessee filed the appeal before the Id. ADDL./JCIT (A) against the intimation passed u/s. 143(1) of the Act. We are of the opinion that where return has been made u/s. 139 or in response to notice u/s. 142(1) of the Act, such returns are only processed under the provisions of sec. 143(1) of the Act by making the adjustment as mentioned in clauses (i) to (vi) of sec. 143(1)(a). Therefore, the contention of Revenue is not tenable as there is no scope to process the return on merits based on examination of documentary evidences under the provisions of Section 143 (1) of the Act. This

can of course be done during the course of the assessment proceedings. Therefore, we are of the considered opinion that there is a difference between the intimation specifying the sum determined to be payable or the amount of refund due to the assessee on the basis of return filed by the assessee and the assessment made by the AO assessing the total income of the assessee in which in our opinion, the case should be discussed in details on merits based on examination of documentary evidences. Further, as per the explanation (b) of provisions of sec. 143(1) of the Act, the acknowledgement of the return shall be deemed to be the intimation in a case where no sum is payable by, or refundable to, the assessee under clause (c) and where no adjustment has been made under clause (a) of the Act. Therefore the question of examination of the documentary evidences while processing of return u/s 143(1) of the act does not arise at all. In our view the AO has wide powers to examine the same by initiating the Assessment/Reassessment proceedings. Therefore this contention of the revenue fails.

10.1 In our opinion while allowing the appeal of the assessee, the Id. ADDL./JCIT (A)-2, Chennai has elaborately discussed on the merits of the case. In the case of the ICDS adjustment of Rs. 14,37,45,699/- which has been added back u/s. 143(1) of the Act, we are completely in agreement with the view of the Id. ADDL./JCIT (A)-2, Chennai in observing that the ICDS adjustments were made under the head ICDS-I & ICDS-VI which relates to accounting policies and changes in the exchange rates. As per the adjustment, the net negative effect of Rs. 14,37,45,699/- was considered by the assessee while computing total income for the AY 2023-24. We also concur with the opinion of the Id. ADDL./JCIT (A)-2, Chennai that as the assessee has reported the necessary adjustments under Col. No. 13(e) of the audit report disclosing the necessary ICDS

adjustments, the adjustment made by the AO (CPC) adding back the negative amount of Rs. 14,37,45,699/- is not justifiable.

**10.2** Further with regard to denial of deduction under section 80JJAA amounting to Rs. Rs.1,12,46,618/-, we also concur with the opinion of the Id. ADDL./JCIT (A)-2, Chennai that as the assessee has opted for the concessional tax regime under section 115BAA of the IT Act previously based on form 10IC filed for AY 2020-21, which was duly accepted by the AO (CPC) while processing the return of income under section 143(1) of the Act, then denying the assessee claim u/s. 80JJAA of the Act amounting to Rs. 1,12,46,618/- for the AY 2023-24 without providing valid reasons lacks validity. We are also of the opinion that companies opting for the concessional tax regime u/s. 115BAA though not claiming any exemption or deduction under the Act can still make a claim under section 80JJAA of the Act. In the present case, the assessee had also filed the original return before the extended due date of 30.11.2023. Therefore, we find no infringement in the order of the Id. ADDL./JCIT (A)-2, Chennai and accordingly, we dismiss the appeal of the Revenue.

11. Now, with regard to cross objection filed by the assessee contending that the intimation passed u/s. 143(1) of the Act is in violation of the provisions of sec. 143(1)(a) of the Act, we are of the opinion that the intimation passed u/s. 143(1) of the Act by the central processing centre by ignoring the mandate law contained in sec. 143(1)(a) that before making such adjustment, the assessee should be put to notice is illegal & bad in law. Since this has not been done, the jurisdiction of the Central processing centre in doing such adjustments sans any notice is vitiated. Consequently, the adjustment done by the central processing centre is not sustainable



in law as it violates the principles of natural justice. Therefore, the CO filed by the assessee is allowed on this count.

**In the result, the appeal filed by the Revenue is dismissed and the CO filed by the assessee is allowed**

Order pronounced in the open court on 15<sup>th</sup> Jan, 2025

**Sd/-**  
**(Waseem Ahmed)**  
**Accountant Member**

**Sd/-**  
**(Keshav Dubey)**  
**Judicial Member**

Bangalore,  
Dated 15<sup>th</sup> Jan, 2025.  
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The DR, ITAT, Bangalore.
5. Guard file

By order

**Asst. Registrar,  
ITAT, Bangalore.**