

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'B', NEW DELHI**

**BEFORE SH. ANIL CHATURVEDI, ACCOUNTANT MEMBER AND
SH. YOGESH KUMAR US, JUDICIAL MEMBER**

ITA No. 8414/Del/2019
(Assessment Year : 2017-18)

ACIT Circle – 10(2), New Delhi PAN No. AAACS 1314 G (APPELLANT)	Vs.	Green dot Health Foods Pvt. Ltd., BMC House 66, Shraddha Nand Marg, New Delhi-110 035 (RESPONDENT)
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Assessee by	Shri Vijay Singla, C.A.
Revenue by	Shri Rajendra Jha, Sr. D.R.

Date of hearing:	06.02.2023
Date of Pronouncement:	09.02.2023

ORDER

PER ANIL CHATURVEDI, AM :

This appeal filed by the Revenue is directed against the order dated 16.08.2019 of the Commissioner of Income Tax (Appeals)-4, New Delhi relating to Assessment Year 2017-18.

2. Brief facts of the case as culled out from the material on record are as under :-

3. Assessee is a company who filed its return of income for A.Y. 2017-18 on 24.10.2017 declaring total income at Rs.6,24,70,710/-. CPC vide intimation u/s 143(1) of the Act

dated 30.10.2018 (Communication Reference No.CPC/1718/A6/1853909562) determined the total income at Rs.8,55,87,830/- by *inter alia* denying the claim of deduction of Rs.2,31,17,115/- u/s 80IC of the Act.

4. Aggrieved by the order of AO, assessee carried the matter before CIT(A) who vide order dated 16.08.2019 in Appeal No.110/18-19/CIT(A)-4 allowed the appeal of the assessee. Aggrieved by the order of CIT(A), Revenue is now in appeal and has raised the following grounds:

“1. *Whether the CIT(A) was erred on facts and circumstances in deleting the disallowance of 80IC ignoring the facts that the audited report in Form 10CCB is mandatory to be filed along with return of income as per the provision of section 80IA(7) which is pre-condition of claiming the deduction”.*

5. Before us, Learned DR submitted that assessee had filed the return of income declaring taxable income at Rs. 6,24,70,710/- *inter alia* by claiming deduction of Rs. 2,31,17,115/- u/s 80IC of the Act. He submitted that for claiming deduction u/s 80IC of the Act, assessee is required to furnish report in Form-10CCB which the assessee had uploaded on the website of the Income-tax Department on 10.11.2017 i.e. subsequent to the filing of return of income. Learned DR submitted that since the assessee had not filed Form 10CCB along with return of income, the AO was fully justified in denying the claim of deduction u/s 80IC of the Act and the CIT(A) should have upheld the order of AO.

6. Learned AR on the other hand supported the order of CIT(A) by pointing to the findings of CIT(A). He also placed reliance on the decision of Apex Court in the case of **CIT vs. G. M. Knitting Industries (P.) Ltd. 376 ITR 456** wherein it has been held that when Form 10CCB is not filed with the return of income but is filed before the passing of the assessment order, then in that case the claim of deduction cannot be denied.

7. We have heard the rival submissions and perused the material available on record. The issue in the present ground is about the denial of claim of deduction u/s 80IC of the Act by AO but allowing the claim of the assessee by CIT(A). The only reason for denying the claim of deduction u/s 80IC of the Act by AO was that the Form 10CCB was uploaded by the assessee on the website of the Income-tax Department on 10.11.2017 whereas the return of income was filed on 24.10.2017 and the return of income was processed u/s 143(1) of the Act on 30.10.2018. We find that CIT(A) while deciding the issue in favour of the assessee has given the finding that though there was delay in upholding Form 10CCB but the same was uploaded before the return of income was processed u/s 143(1) of the Act. For allowing the ground of assessee, CIT(A) had relied on the decision of Hon'ble Delhi High Court in the case of **CIT vs. Contimeters Electricals (P.) Ltd. [2009] 178 Taxman 422 (Delhi)** and other decisions. We find that Hon'ble Apex Court in the case of **CIT vs. G. M. Knitting Industries (P.) Ltd. (2017) 71 taxmann.com 35 (SC)** has

held even though Form 10CCB was not filed along with the return of income but when the same was filed before the final order of assessment was made, assessee was entitled to claim deduction. Before us, Revenue has not pointed to any contrary binding decision in its support nor has pointed to any fallacy in the findings of CIT(A). We, therefore, find no reason to interfere with the order of CIT(A) and **thus the ground of Revenue is dismissed.**

8. In the result, appeal of the Revenue is dismissed.

Order pronounced in the open court on 09.02.2023

Sd/-

**(YOGESH KUMAR US)
JUDICIAL MEMBER**

Sd/-

**(ANIL CHATURVEDI)
ACCOUNTANT MEMBER**

Date:- 09.02.2023

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Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI