

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'A' NEW DELHI**

**BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER
AND
SHRI MAHAVIR PRASAD, JUDICIAL MEMBER**

**ITA No. 3295/Del/2017
Assessment Year: 2013-14**

Airport Authority of India, vs. Addl. CIT, Range-2,
Block-A, Rajiv Gandhi Bhawan, New Delhi
Sufdarjung Airport, New Delhi.

PAN : AAACA 6412D
(Appellant)

(Respondent)

Appellant by : Sh. Satish Agarwal, CA &
Sh. Dharmendra Kumar, CA
Respondent by: Sh. Satpal Gulati, CIT/DR

Date of hearing: 01.09.2021

Date of order : 01.09.2021

ORDER

PER MAHAVIR PRASAD, J.M.

This appeal has been preferred by the assessee against the order of the Id. CIT(A) No. 252/16-17 dated 28.03.2017, arising out of the assessment order dated 31.03.2015. Appellant has taken following grounds of appeal :

- “1. That the order passed by the Learned CIT(Appeals)-I, New Delhi is arbitrary, biased and bad in law and facts of the case to the extent it confirms the addition made by the Assessing Officer.

2. That the Learned CIT(Appeals) has grossly erred in confirming the addition of Rs.23,47,78,000/- made by the Learned Assessing Officer by disallowing the amount provided for Corporate Social Responsibility(CSR)
3. That the Learned CIT(Appeals) has grossly erred in confirming the action of the Assessing Officer in disallowing the claim of CSR provision ignoring that the amendment made in the Income Tax Act y insertion of Explanation 2 to section 37(l) was effective from assessment year 2015-16.

2. The facts of the case are that the assessee is a 100% Government owned authority and is engaged in the business of maintenance and operation of air traffic and airports. During the course of assessment proceedings, the assessee submitted its audited accounts which were subjected to audit by Comptroller and Auditor General (CAG) of India and in its audit report as per Form 3CA, the CAG of India submitted that the assessee company had created a fund for expenditure on CSR to the tune of Rs.13.16 crores, which remained unspent as on 31.03.2013. Any provision created for any expenditure being in the nature of contingent liability is not allowed. Therefore, the assessee was issued a notice and in its reply, the assessee stated that the observation of the CAG is correct and CSR liabilities created during the year need to be added in taxable income, however, the same has not been done so due to oversight only. Learned Assessing Officer observed that CAG in its report dated 21.11.2013 had pointed out the issue and assessee had ample time to revise its return of income and file revised computation of income, which he failed to do so and in such circumstances, an addition of

Rs.23,47,78,000/- was made. Thereafter, against the said order, assessee preferred first statutory appeal before the Id. CIT(A), who confirmed the action of the Assessing Officer. Now, the appellant has come before us and filed second statutory appeal.

3. We have gone through the impugned order and relevant record. Before us, three voluminous paper books have been filed and the Id. AR argued that these are all additional evidences, filed first time before us and he referred to certain pages of the paper book such as page No. 776, 777 and 782 and so on. Since these evidences have been filed for the first time before us, therefore, in the interest of justice, we set aside this matter to the file of Id. CIT(A) who will go through all these additional evidences filed before us and thereafter pass an order as per law.

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

Order pronounced in the open court on this 1st day of September, 2021.

Sd/-

(R.K. PANDA)
ACCOUNTANT MEMBER

Dated: 1st Sept., 2021

'aks'

Sd/-

(MAHAVIR PRASAD)
JUDICIAL MEMBER