

आयकर अपीलिय अधिकरण, 'ए' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'A' BENCH, CHENNAI
श्री वी दुर्गा राव न्यायिक सदस्य एवं श्री जी. मंजुनाथा, लेखा सदस्य के समक्ष
Before Shri V. Durga Rao, Judicial Member &
Shri Manjunatha, G., Accountant Member

आयकर अपील सं./I.T.A. No.679/Chny/2023
निर्धारण वर्ष/Assessment Year: 2018-19

Cholan Paper and Board Private
Limited, No. 1, Bukkathurai, NH 45,
Bukkuathurai, Kancheepuram District,
Tamil Nadu 603 308.

Vs. The Principal Commissioner of
Income Tax, Chennai-1,
Chennai.

[PAN:AAACC1363M]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri N. Quadir Hoseyn, Advocate &
Dr.L. Natarajan, CA
प्रत्यर्थी की ओर से/Respondent by : Shri Nilay Baran Som, CIT
सुनवाई की तारीख/ Date of hearing : 30.01.2024
घोषणा की तारीख /Date of Pronouncement : 07.02.2024

आदेश / O R D E R

PER V. DURGA RAO, JUDICIAL MEMBER:

This appeal filed by the assessee is directed against the order of the Id. Principal Commissioner of Income Tax, Chennai-1, Chennai, dated 28.03.2023 relevant to the assessment year 2018-19 passed under section 263 of the Income Tax Act, 1961 ["Act" in short].

2. Brief facts of the case are that the assessee company filed its return of income for the assessment year 2018-19 on 29.09.2018 declaring an income of ₹. NIL after adjusting the brought forward loss of

₹.2,85,98,668/-. The return was processed under section 143(1) of the Act on 02.10.2019 and the income was assessed at ₹.13,10,210/-. Subsequently, the case was selected for limited scrutiny for verification of (i) duty drawback, (ii) unsecured loans & (iii) disallowance u/s. 40A(7) (Gratuity Provision). The assessment proceedings under section 143(3) r.w.s. 143(3A) & 143(3B) of the Act were completed on 08.03.2021 and the returned income has been accepted.

3. On perusal of the assessment records for the assessment year 2018-19, the Id. PCIT has observed that while computing the profit before tax of ₹.3,63,80,762/-, the assessee had debited to profit and loss account a sum of ₹.24,48,406 towards provision for bad and doubtful debts which is not an allowable expenditure and the same was not added back while computing the total income under normal provisions of the Act. Thus, by invoking the provisions of section 263 of the Act, the Id. PCIT issued notice to the assessee proposing for revision under section 263 of the Act. The assessee filed its written submission before the Id. PCIT. After considering the submissions of the assessee, wherein, the assessee has stated that they have inadvertently stated the amount of ₹.24,48,406/- under provision for bad debts while reporting their income. Thus, the Id. PCIT was of the opinion that the assessment order passed

under section 143(3) r.w.s. 143(3A) & 143(3B) of the Act is erroneous and prejudicial to the interest of Revenue and accordingly set aside the assessment order and directed the Assessing Officer to re-examine and pass fresh assessment order by granting opportunity to the assessee of being heard.

4. On being aggrieved, the assessee carried the matter in appeal before the Tribunal. The Id. counsel for the assessee has submitted that against the notice under section 142(1) of the Act, all the questions raised by the Assessing Officer mere with regard to loans only under “Limited Scrutiny” were replied. It was further submission that under column 6(M) of the statutory return, it was specifically mentioned that there was no provision for bad and doubtful debts and the assessee had performed its statutory obligation. The Id. Counsel has further submitted that it was merely a clerical mistake to have entered as a “provision for bad and doubtful debts” in P&L account and thus, no revisional proceedings were warranted. Since having regard to the carry forward losses of earlier assessment years, no prejudice was caused and hence proceedings under section 263 of the Act was not sustainable and prayed for quashing the revision order.

5. On the other hand, the Id. DR supported the revision order passed by the Id. PCIT.

6. We have heard both the sides, perused the materials available on record and gone through the assessment order as well as revision order passed under section 263 of the Act. Admittedly, the return filed by the assessee was selected for limited scrutiny for verification of (i) duty drawback, (ii) unsecured loans & (iii) disallowance u/s. 40A(7) (Gratuity Provision). The Assessing Officer issued notice under section 142(1) of the Act to the assessee calling for various details. The assessee filed its reply on 11.03.2020. The Assessing Officer, vide his notice under section 142(1) of the Act dated 30.07.2020, called for various details as per annexure to the notice and the same are reproduced as under:

ANNEXURE

With respect to your reply filed on 11/03/2020 in response to notice issued to you u/s 142(1), you are requested to kindly furnish the below specified details:

1. In your ITR filed for the A.Y.2017-18, there was loan shown in column "loan from others" at Rs.5,27,92,257/- whereas in your submission, loan outstanding as on 01.04.2017 is Rs. 11,12,81,165/-. Please reconcile the same with a break-up of secured & unsecured loans with supporting evidence.

2. In ITR filed for the A.Y.2018-19 there is a loan shown in column "loan from others" at Rs. 7,98,54,734/- whereas in your submission, loan outstanding as on 31.3.2018 is Rs.9,35,33,427/-. Please reconcile the same with a break-up of secured & unsecured loans including squared up loans, with supporting evidence.

3. As per details filed by you regarding loans, there are two Unsecured Loans, namely MD ARM Govind Rajan & P. Duraisami. In this connection, you are requested to please furnish the following:

- Confirmations of accounts in-respect of MD ARM Govind Rajan & P. Duraisami from whom unsecured loans have been taken during the year, mentioning their PANs.
- Copy of ledger of MD ARM Govind Rajan & P. Duraisarni appearing in your books of accounts in respect of such unsecured loans.

4. You are also requested to please furnish complete details of Unsecured Loans, if there are other than above taken during the year and furnish the following:

- Confirmations of accounts in respect of all the parties from whom Unsecured Loans (only) have been taken during the year mentioning their PANs.
- Copy of ledger of all the parties from whom only 'Unsecured Loans have been taken during the year under consideration as appearing in your books of accounts.

5. In your submission, you have stated that "Regarding the identity, genuineness and creditworthiness of the lender, ITR of last three years, you need fifteen (15) days time to upload the same". In this regard, you are requested to please furnish the same in respect of an Unsecured Loans (only) taken by you during the year."

7. After considering the reply filed by the assessee and after verification of the details furnished by the assessee, the Assessing Officer has completed under the assessment under section 143(3) r.w.s. 143(3A) & 143(3B) of the Act. The case of the assessee is that under limited scrutiny, the assessee has furnished all the details called for before the Assessing Officer and it was merely a clerical mistake and inadvertently stated the amount of ₹.24,48,406/- under provisions for bad debts while reporting the income. During the revision proceedings, the assessee has

submitted that the bad debts had actually be written off in the books, which is evidenced by the fact that debtors account had been duly credited with this sum and if at all the said sum is added, no prejudice will cause to the Revenue.

8. On perusal of the revision order under section 263 of the Act, the assessee has filed detailed written submissions along income computation before the Id. PCIT which was reproduced at para 6 of the order. From its computation, it is amply clear that if at all the disallowance of provisions for bad and doubtful debts of ₹.24,48,406/- is added, the brought forward losses of earlier years in the sum of ₹.5,59,54,365/- reported in page 56 of the IT under Schedule-CFL is adjusted to the extent of the current year's income under the head "income from business or profession" ₹.3,10,47,074/- and balance loss of ₹.2,49,07,291/- [₹.5,59,54,365-₹.3,10,47,074] will have to be carried forward to future years thereby, the total income of the assessee would be NIL and whatever TDS collected are refundable. Moreover, in this case, the Assessing Officer has examined the case of the assessee for which it was selected under "Limited Scrutiny". Under the above facts and circumstances, we are of the considered opinion that it is not a fit case to invoke the provisions of section 263 of the Act and pass revision order,

where the case of the assessee was picked up for limited scrutiny in view of the decision of the Hon'ble Madras High Court in the case of CIT v. Smt. Padmavathi in T.C.A. No. 350 of 2020 dated 06.10.2020 as the Id. PCIT cannot enlarge the scope of limited scrutiny. Thus, the revision order under section 263 of the Act stands quashed.

9. In the result, the appeal filed by the assessee is allowed.

Order pronounced on 07th February, 2024 at Chennai.

Sd/-
(MANJUNATHA, G.)
ACCOUNTANT MEMBER

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Chennai, Dated, 07.02.2024

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to: 1. अपीलार्थी/Appellant, 2. प्रत्यर्थी/ Respondent, 3. आयकर आयुक्त/CIT, 4. विभागीय प्रतिनिधि/DR & 5. गार्ड फाईल/GF.