

आयकर अपील अथवा अधकरण, "सी+यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'C' BENCH, CHENNAI
श्री ए. मोहन अलंकामणी, लेखा सदस्य एवं श्री धुवुरु आर.एल रेड्डी, न्यायिक सदस्य के समक्ष
**Before Shri A. Mohan Alankamony, Accountant Member &
Shri Duvvuru RL Reddy, Judicial Member**

आयकर अपील सं./I T.A. No. 2576/Mds/2014

प्रधानावस्था वर्ष/**Assessment Year:2011-12**

M/s. Empee Sugars & Chemicals Ltd.,
Empee Towers, 59, Harris Road,
Pudupet, Chennai 600 002.

Vs. The Deputy Commissioner of
Income Tax,
Central Circle I(2),
Chennai.

[PAN: AABCB5658G]

(Appellant)

(Respondent)

अपीलाथक क ओर से / Appellant by : Shri S. Sridhar, Advocate
प्रत्यथक क ओर से/Respondent by : Shri Benny John, CIT - DR
सुनवाई क तारख / Date of hearing : 06.11.2017
घोषणा क तारख /Date of Pronouncement : 27.11.2017

आदेश /O R D E R

PER DUVVURU RL REDDY, JUDICIAL MEMBER:

This appeal filed by the assessee is directed against the order of the
Id. Commissioner of Income Tax, Central I, Chennai, dated 30.07.2014
passed under section 263 of the Income Tax Act, 1961 [Act+in short] for the
assessment year 2011-12.

2. Brief facts of the case are that the assessee is engaged in the
business of manufacture and sale of sugar and filed its return of income on

26.09.2011 admitting NIL income and book profit of .7,59,42,894/- under section 115JB of the Act. The return filed by the assessee was selected for security and notice under section 143(2) of the Act was issued on 11.09.2012. Notice under section 142(1) of the Act dated 11.12.2013 along with questionnaire calling for various details were issued to the assessee. In response thereto, the assessee filed the details as called for. After verification of details as well as considering the submissions, the assessment was completed under section 143(3) of the Act by assessing the loss at .173,00,03,119/- and the assessee was allowed to carry forward the loss to next assessment year. Similarly, tax payable under section 115JB of the Act was also assessed and since the income as per section 115JB of the Act was higher than the income under normal provisions of the Act, income as per section 115JB was adopted.

2.1 On perusal and review of the assessment records, the Id. CIT was of the opinion that the assessment order passed under section 143(3) of the Act dated 28.03.2014 is erroneous and prejudicial to the interest of the Revenue, by invoking the provisions of section 263 of the Act, the Id. CIT issued a notice on 22.04.2014 for following discrepancies:

- (i) The depreciation of .208.70 Cr. claimed by the assessee was not verified fully since the bills/vouchers required to be furnished by the assessee were not furnished entirely.
- (ii) M/s. Praj Industries Ltd. (PIL) from Pune provides accommodation entries to assessee's customers by booking non genuine bills in its books of accounts.

In response to the above notice, the assessee filed his written arguments and by considering the same, the Id. CIT was of the opinion that without verifying complete bills and vouchers, the assessee was allowed to claim depreciation. With regard to the issue of transaction, as per the information received from the Investigation Wing, Pune, PIL provided accommodation entries to its customers including Empee Sugars & Chemicals Ltd. by booking non-genuine bills against plants and machineries supplied to them in its books of accounts, which need thorough verification. Accordingly, the Id. CIT set aside the assessment and directed the Assessing Officer to redo the same after making thorough verification of the issues.

3. Aggrieved, the assessee is in appeal before the Tribunal against the order passed under section 263 of the Act. By relying on the grounds of appeal, the Id. Counsel for the assessee has prayed that the order passed by the Id. CIT should be set aside on both the issues. On the other hand, the Id. DR strongly supported the order passed by the Id. CIT on both the issues.

4. We have heard both sides, perused the materials available on record and gone through the orders of authorities below. The assessment order passed under section 143(3) of the Act was found by the Id. CIT to be erroneous and prejudicial to the interest of the Revenue on the ground that the depreciation of .208.70 crores claimed by the assessee was not verified

fully since the bills/vouchers required to be furnished by the assessee were not furnished entirely and M/s. Praj Industries Ltd. (PIL) from Pune provides accommodation entries to assessee's customers by booking non genuine bills in its books of accounts. Accordingly notice under section 263 of the Act was issued to the assessee and the Id. CIT has considered the submissions, wherein, it was the submission of the assessee that all the bills and vouchers with regard to the claim of depreciation were furnished before the Assessing Officer and he has thoroughly examined. However, on verification of records of the assessment proceedings, the Id. CIT noticed that the assessee has not furnished all the bills/vouchers for verification. Further, he also noticed that the Assessing Officer had left a detailed note that some bills and vouchers were furnished for verification only on 26.03.2014 and hence the bills could not be verified during the assessment proceedings. Thus, it is quite evident that the Assessing Officer has not completely verified the bills and vouchers. Therefore, the assessee was not correct to say that the Assessing Officer has thoroughly examined the bills/vouchers relating to the claim of depreciation.

4.1 Further, with regard to the transaction with M/s. PIL, Pune, it was the submission of the assessee that there were no transactions with the above said company, but the Id. CIT has observed that information received from the Investigation Wing, Pune reveals that M/s. PIL has provided

accommodation entries to its customers including the assessee by booking non-genuine bills against plants and machineries supplied to them in its books of accounts. However, the Assessing Officer has not verified the above aspect. Accordingly, the Id. CIT has held that the assessment order passed by the Assessing Officer under section 143(3) of the Act is erroneous and prejudicial to the interest of Revenue. After carefully considering the submissions of the assessee as well as detailed note left by the Assessing Officer and the order of the Id. CIT, we are of the considered opinion that the Id. CIT has rightly invoked the provisions of section 263 of the Act and directed the Assessing Officer to redo the assessment after making thorough verification of the above issues. Thus, we find no infirmity in the order passed by the Id. CIT and accordingly, the grounds raised by the assessee are dismissed.

5. In the result, the appeal filed by the assessee is dismissed.

Order pronounced on the 27th November, 2017 at Chennai.

Sd/-
(A.MOHAN ALANKAMONY)
ACCOUNTANT MEMBER

Sd/-
(DUVVURU RL REDDY)
JUDICIAL MEMBER

Chennai, Dated, 27.11.2017

Vm/-

आदेश का प्रतिलिपि अर्पण/Copy to: 1. अपीलार्थी/Appellant, 2. प्रत्यर्थी/Respondent, 3. आयकर आयुक्त (अपील)/CIT(A), 4. आयकर आयुक्त/CIT, 5. प्रभागीय प्रसन्नध/DR & 6. गाडफ़ाईल/GF.