

**IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE BENCHES : "B", BANGALORE**

**BEFORE SHRI B.R.BASKARAN, ACCOUNTANT MEMBER
AND**

SMT BEENA PILLAI, JUDICIAL MEMBER

**ITA No.85(Bang)/2019
(Assessment Year : 2015-16)**

M/s Aryan Hitech Steels Ltd.,
No.2380, 1st Floor, E Blok,
1st Main Road, Sahakarnagar,
Bangalore -560 092
PAN No.AALCA1940K

Appellant

The deputy Commissioner of Income tax,
Circle-1(1)(1),
Bangalore

Respondent

**Appellant by : Shri Rishabh Singhvi, CA
Revenue by : Sri R.N.Siddapaji, Addl.CIT**

Date of hearing : 09-07--2019

Date of pronouncement :

ORDER

PER SMT BEENA PILLAI, JUDICIAL MEMBER

Present appeal has been filed by assessee against order dated 16/11/18 passed by Ld. CIT (A)-1, Bangalore route for assessment year 2015-16 on following grounds of appeal:

“1.1 The learned Dy. Commissioner of Income tax, Circle 1(1)(1), Bengaluru (AO) has erred in passing the assessment order in the manner passed by him and the Learned Commissioner of Income tax, Bengaluru - 1 [CIT(A)] has erred in sustaining the addition made by the learned assessing officer. The order passed by the CIT(A) is bad in law and liable to be quashed.

Addition in respect of Unsecured Loans:

1.2 The Ld. AO and CIT(A) have erred in making the addition of Rs.64,20,000/- being unsecured loans without appreciating the ledger a/cs and bank statements which evidence that the loans were received from Bank Transfers and erred in concluding that the source cannot be said to unidentifiable/ unexplainable.

1.3 The Ld. AO and CIT(A) failed to appreciate the balance confirmations submitted by the assessee during the course of assessment proceedings which contain the signatures of Mr Sandeep Kumar Jallan (PAN No. AELPK0053Q) and Mrs Priya Jallan(AEOPJ0846F) along with their respective PANs.

1.4 The Ld. AO failed to appreciate the letters submitted by the Unsecured Lenders in response to the notice issues u/s 133(6) wherein the lenders have directly confirmed the outstanding balances as on 31.03.2015 directly to the Ld AO.

1.5 The Ld. AO have erred in making an addition in respect of the unsecured loans availed by the Company of Rs. 64,20,000 without following principles of natural justice and / or issuance of a proposal notice in respect of the addition

of the aforesaid amount. The Ld CIT(A) erred in confirming this assessment order and dismissing the appeal for want of prosecution.

1.6 The Ld. AO has erred in not appreciating that the outstanding amounts have been repaid back in later years and this itself is a self-confirmation of the outstanding balances and leaves no aota of doubt that the loans are from genuine sources. The addition is therefore not sustainable in law.

Other Grounds

1.7 The Ld AO did not following the principles of natural justice and erred in law by not granting an opportunity to the assessee to make its submissions against the addition of Rs. 64,20,000/- in the assessment proceedings u/s 143(2) of the Act.

1.8 The learned CIT(A) has erred in confirming the assessment without appreciating that the Ld AO has passed assessment order against the principles of natural justice.

1.9 The Ld CIT(A) did not follow the principles of natural justice in dismissing the appeal ex-parte when the notices were not effectively served at the location or alternative means were not adopted for services of the notice.

1.10 The Id CIT(A) failed to pass a speaking order on the grounds of appeal and erred in concluding that the grounds cannot be disposed off without factual verification. The Id CIT(A) failed to appreciate the confirmations from lenders submitted along with the appeal paper book. The Id CIT(A) has not provided any

cogent reasons or any specific points which required factual verification. The Id CIT(A) ought to have sought the factual verification from the AO prior to concluding the case ex parte against the assessee.

Prayer:

1.11 In view of the above and other grounds to be adduced at the time of hearing, the appellant prays that the order passed by the Learned Commissioner of Income tax (Appeals) - 1, Bengaluru & the Learned Dy. Commissioner of Income tax Circle 1(1)(1), to the extent prejudicial to the appellant, be quashed_Or in the alternative

a)Delete the addition of Rs. 64,20,000 made by the AO and confirmed by the Ld CIT(A);

b)Reinstate the carry forward of losses of Rs. 68,42,724 as returned by the assessee in its ITR;

The appellant prays accordingly.

It has been submitted by Ld. AR that the impugned order passed by Ld. CIT (A) has been dismissed for nonappearance by applying decision of *CIT vs Multiplan India Pvt.Ltd.*, reported in 38 ITD 320.

It is observed that Ld. CIT (A) has not passed a speaking order on merits. We therefore set aside the issue back to learn CIT (A) with a direction to file a detailed order on merits considering the details/evidences filed by assessee.

Accordingly grounds raised by assessee stands allowed for statistical purposes.

In the result appeal filed by assessee stands allowed for statistical purposes.

Order pronounced in the open court on

(B.R.BASKARAN)
ACCOUNTANT MEMBER

(BEENA PILLAI)
JUDICIAL MEMBER

Dated:

***am**

Copy of the Order forwarded to:

- 1.Appellant;
- 2.Respondent;
- 3.CIT;
- 4.CIT(A);
5. DR
6. ITO (TDS)
- 7.Guard File

By Order
Asst. Registrar

