

आयकर अपीलीय अधिकरण “B” न्यायपीठ मुंबई में।

IN THE INCOME TAX APPELLATE TRIBUNAL “B” BENCH, MUMBAI

श्री महावीर सिंह, न्यायिक सदस्य एवं श्री श्री एम बालगणेश, लेखा सदस्य के समक्ष ।

BEFORE SRI MAHAVIR SINGH, JM AND SRI M BALAGANESH, AM

आयकर अपील सं./ ITA No. 5763/Mum/2017

(निर्धारण वर्ष / Assessment Years 2012-13)

Blue Star Elevators India Ltd. 108 & 109, Pratik Industrial Estate, Mulund –Goregaon Link Road, Bhandup (West), Mumbai-400 078	बनाम/ Vs.	The Income Tax Officer, Ward 15(1)(3), Aayakar Bhawan, Mumbai-400 020
(अपीलार्थी / Appellant)		(प्रत्यर्थी/ Respondent)
स्थायी लेखा सं./PAN No. AAACB5866G		

अपीलार्थी की ओर से / Appellant by	:	Shri BN Rao & Hardik Shgthiya, ARs
प्रत्यर्थी की ओर से / Respondent by	:	Ms. N Hemalatha, DR

सुनवाई की तारीख / Date of hearing:	20.08.2019
घोषणा की तारीख / Date of pronouncement :	20.08.2019

आदेश / ORDER

महावीर सिंह, न्यायिक सदस्य/
PER MAHAVIR SINGH, JM:

This appeal of assessee is arising out of the order of the Commissioner of Income Tax (Appeals)-24, Mumbai, [in short CIT(A)], in ITA No. CIT(A)-24/ITO -15(1)(3)/IT-221/2015-16 dated 02.03.2017. The Assessment was framed by the Income Tax Officer, Ward-15(1)(3), Mumbai (in short ITO/ AO) for the A.Y. 2012-13 vide order dated Nil, under section 143(3) of the Income-tax Act, 1961 (hereinafter ‘the Act’).



2. The only issue in this appeal of assessee is against the order of CIT(A) confirming the addition made by AO holding that this difference in sundry debtors account amounting to ₹ 42,15,710/- represents the incremental amount of credit in the sundry debtors account and another amount of addition is being difference as per books of account and as per form No. 26AS. For this assessee has raised the following three grounds:

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“1. The Ld. Commissioner of Income Tax (Appeals) erred in upholding addition made by Assessing Officer of ₹ 42,15,710/- which is represented in Balance sheet as incremental amount of credit in Sundry Debtors Accounts while partly giving relief to various accounts already forming part of other addition in the form of 26AS mismatch.

2. The Ld. Commissioner of Income Tax (Appeals) erred in upholding addition made by the Assessing Officer subject to certain deductions already covered in other addition which is being contested in Ground No1 above.

3. The Id. Commissioner of Income Tax (Appeals) erred in not addressing the issue of carried forward of losses as claimed by the appellant after considering brought forward losses.”

3. We have heard rival contentions and gone through the facts and circumstances of the case. Brief facts are that the AO made addition being difference in the accounts of the assessee and as per form No.



ITA No. 5763/Mum/2017

26AS amounting to ₹ 12,19,975/-. We noted that as regards to the addition on account of items appearing in form No. 26AS and not recorded in the profit and loss account amounting to ₹ 12,19,975/- has been remanded back to the file of the AO by CIT(A). Hence, according to us, this ground does not require any interference.

4. As regards to credit balance of sundry debtors amounting to ₹ 42,15,710/-. The AO noted that there was credit balance in the closing account as on 31.03.2012 is ₹ 2,92,46,814/- whereas opening balance was ₹ 2,50,31,104/-. The AO observed that there is difference of these two amounts in the opening and closing account amounting to ₹ 42,15,710/- as the assessee could not explain and AO observed that this was in the nature of income from operations hence, he added the income. The CIT(A) also noted that this amount is not reflected as work-in-progress and hence this is income. Aggrieved, assessee is in appeal before Tribunal.

5. We noted that the contention of the assessee is that Sundry credit balance represents advances from customers actually for manufacturing work of lifts and elevators being machinery purchases and parts of the occupant for lift etc., which received in advance from the customers and actual billing is done only after it is completed in all respects and handed over to the customers. It was explained that some time it was spilled over to the subsequent financial years and this is normal practice of the assessee. We are of the view that these facts were not explained before the AO and evidences were not filed. Hence, we are of the view that let the issue be remanded back to the file of the AO after setting aside the orders of the lower authorities. Hence, we set aside the orders of the lower authorities and remand this issue back to the file of the AO for fresh consideration, after considering all the evidences and explanations. This issue of assessee is allowed for statistical purposes.



ITA No. 5763/Mum/2017

6. As regards to the issue of disallowance of brought forward losses of ₹ 42,931/-, we find that the CIT(A) has not adjudicated this issue. As the main issue is going back to the file of the AO, we remand this issue also back to the file of the Assessing Officer. Hence, this issue of assessee's appeal is allowed for statistical purposes.

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

Order pronounced in the open court on 20.08.2019.

Sd/-

(एम बालगणेश / M BALAGANESH)

(लेखा सदस्य / ACCOUNTANT MEMBER)

Sd/-

(महावीर सिंह / MAHAVIR SINGH)

(न्यायिक सदस्य/ JUDICIAL MEMBER)

मुंबई, दिनांक/ Mumbai, Dated: 20.08.2019

सुदीप सरकार, व.निजी सचिव / Sudip Sarkar, Sr.PS

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार (Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai