IN THE INCOME TAX APPELLATE TRIBUNAL "B", BENCH KOLKATA

BEFORE SHRI S.S.GODARA, JM &DR. A.L.SAINI, AM

आयकरअपीलसं./ITA No.2273/Kol/2018

(निर्धारणवर्ष / Assessment Year:2014-15)

ITO, Ward-23(4), Hooghly	**Vs.**	**M/s Mother India Rice Mill** **Village-Tirol, Arambagh, Hooghly-712601, WB**
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: **AAMFM 5563 G**		
(Appellant)	**..**	**(Respondent)**

Appellant by :Shri Baij Nath Singh, JCIT
Respondent by :Shri B. N. Roy, Advocate

सुनवाईकीतारीख/ **Date of Hearing** : **14/11/2019**

घोषणाकीतारीख/**Date of Pronouncement** : **29/01/2020**

आदेश / O R D E R

Dr. A.L. Saini, AM:

The captioned appeal filed by the Revenue, pertaining to assessment year 2014-15, is directed against the order passed by the Commissioner of Income Tax (Appeal)-6, Kolkata in appeal no. CIT(A), Kolkata-6/10283/2016-17, which in turn arises out of an assessment order passed by the Assessing Officer u/s 143(3) of the Income Tax Act, 1961 (in short the "Act") dated 29/12/2016.

2. The grounds of appeal raised by the Revenue reads as follows:

1. That the ld. CIT(A) has erred in deleting the addition of Rs. 1,80,45,086/- without appreciating that the addition was made by the Assessing Officer based on the submission of the assessee who repeatedly failed to reconcile the investment amount of Rs. 1,80,45,086/- with specific supporting evidences. Neither could the assessee explain the source of such investment

which was also offered as collateral security in order to obtain C.C. loan from bank and the same amount was also not reflected in Balance Sheet.

2. That the order of ld. CIT(A) on the above issue is unjustified and is devoid of any merit, the same should be quashed.

3. That the appellant craves leave to amend, alter, modify, substitute, add to, abridge and /or rescind any or all of the above grounds.

3. Brief facts qua the issue are that during the course of hearing it was observed by Assessing Officer from the balance sheet for F.Y. 2013-14 that fixed asset was reflected to the tune of Rs. 1,31,54,563/-and balance of fixed deposit with HDFC bank was reflected to the tune of Rs. 25,27,691/-. But in reply to query against notice u/s 133(6) of Act dated 14.10.2016, it was stated by HDFC Bank Ltd. vide letter dated 24.10.2016, relating to collateral security that commercial property valuation of rice mill is to the tune of Rs. 312 lakh and FD & LICare to the tune of Rs. 3.75 lakh only. In view of above, letter was issued to assessee firm on 22/11/2016 to provide collateral security with supporting evidences to substantiate its claim. In reply to above A.R of the assessee filed a submission dated 08.12.2016 stating inter alia that all assets of their unit i.e. Land & Building, Civil Constructions, Plant & Machinery, Electrical equipments, Furniture along with fixed deposits are in the name of the unit & partner's Personal LIC Bonds. Also filed a statement of FD with HDFC Bank which shows closing balance as on 31.03.2014 at Rs.25,27,691/- and FD with S.I.D.B.I. Kolkata stands at Rs.6,26,782/- only.Since the statement varies with the reply of HDFC Bank, Arambagh Branch. The Assessing Officer issued notice to the assessee on 09.12.2016 to reconcile the difference. The notice of Assessing Officer is reproduced below:

"…….Allowing reasonable opportunity of being heard your case is finally fixed for hearing on 15 .12.2016 at 2.30 pm *to* clarify/reconcile *the matter relating to co- lateral security with reference to information received from HDFC Bank, Arambagh Hooghly 12601 on 31.10.2016 (copy enclosed) , which is self explanatory.(Fixed asset/property Rs 312 Lakh &FD & LIC Rs 36.75 Lakh)*

In this connection it is not out of place to mention here that as per your accountsfixed asset was shown to the tune of Rs 1,31,54,583.94 & FDs with HDFC Bank stands at Rs 2571691.19.

Reconciliation on the of above matter is urgently required latest by 15.12.2016

Non compliance/ineffective compliance will attract penalty as per Act 61. & completion of scrutiny assessment without any reference to you. "

4. In reply to above, the ld. Counsel of the assessee filed a submission on 20.12.2016 with valuation report of HDFC Bank statingthat*"the liquid co-lateral security was kept with the bank consist of bank FD of Rs.25.27 lakh and rest Rs. 11.56 lakh were in the form of L.I.P. of partners, which is taken as its surrender value as per the LIC Authority. Finally calculated the information of fixed asset and LIP value which stands at Rs.36.83 lakh, whereas as per HDFC bank information of fixed asset and LIP value stands at Rs.36.75 lakh. Also stated that the land, on which the unit was constructed, purchased in the year 2004 as an agricultural land in the remote area. Subsequently, the land was converted as commercial land in favour of Rice Mill unit. Again stated that the value of earlier purchase in the year 2004 was not a comparative to present valuation of the year 2011 after an industrial construction over the agricultural land. Moreover, the rapid growth in land valuation since year 2004 to 2011 is to be taken into consideration as the price jump in real estate assets value."*

Further stated that*"The entire civil construction - Transformer room (RCC). Generator room (asbestos shed), factory shed (tin shed), husk shed (tin shed), store and servant quarter was valued after depreciation as on 31.03.2014 of Rs. 15,03,458/-.only.*

However, the valuation report as per HDFC bank stands as follows:-
Land Value Rs.l,33,18,500
Net cost of Construction Rs.l,78,81,150
TotalRs.3,11,99,650

Therefore Assessing Officer noticed that assetsreflected inschedule of fixed assets in audited accounts to the tune of Rs. 1,31,54,563/-,which includes W.D.V. of civil construction of Rs. 15,03,458/- but, as per valuation report of HDFC bank Ltd. land value stands at Rs. 1,33,18,500/- and value of construction stands at

Rs.l,78,81,150/-, i.e. in total Rs 3,11,99,650 /- only. Accordingly, total difference of valuation relating to collateral security stands to the tune of Rs. 1,80,45,086/- (Rs.3,11,99,650.00 - Rs. 1,31,54,563.94).

Since the assesseefailed to reconcile the above invested amount of Rs. 1,80,45,086/- with specific supporting evidences and could not explain the source of such investment, which was also offered as collateral security in order to obtain C.C loan against A/c No 10628970000128 of HDFC Bank, Arambagh and as the above amount was not reflected in balance sheet,therefore, Assessing Officer made addition to the tune of Rs. 1,80,45,086/-.

5. On appeal, the ld. CIT(A) deleted the addition observing the following:

> *"5. Ground no. 2 is in respect of addition of Rs. 1,80,45,086/- to the total income of the appellant. The Assessing Officer has added such sum being the difference of the market value of the commercial property of appellant (running rice mill) and such asset owned by the appellant market value being at Rs. 3,11,99,650/- and the book value of the fixed asset as appearing in the books of the appellant was at Rs. 1,39,54,563.94 (as on 31.03.2014). As such, the Assessing Officer added the difference of the two Rs. 1,80,45,086/- (Rs. 3,11,99,650 - Rs. 1,39,54,563.94). On a perusal of the order, I find that the Assessing Officer has merely relied upon the valuation report by the HDFC Bank where the aggregate value of the land and construction stood at Rs.3,11,99,650/-. I find no substance in the A.O's contention and the addition so made since mere difference in the valuation of the property and the books value of the said property does not invite any kind of taxability. The Assessing Officer has mentioned in the order that the purchases were made in earlier year so it is not the case of the A.O. that the difference reflected any undisclosed investment of the year. Hence I am not inclined to accept the contention of the Assessing Officer in any manner and hence the addition so made is deleted. Hence this ground of the appellant is allowed."*

6. Aggrieved by the order of ld CIT(A), the revenue is in appeal before us.

7. The ld. DR has primarily reiterated the stand taken by the Assessing Officer which we have already noted in our earlier para and the same is not being repeated for the sake of brevity and on the other hand the ld. Counsel for the assessee has relied on the order of the ld. CIT(A).

8. We have heard both the parties and carefully gone through the submission put forth on behalf of the assessee along with the documents furnished and the case laws relied upon, and perused the fact of the case including the findings of the ld CIT(A) and other materials available on record. We note that the ld. Assessing Officer erred in adding a sum of Rs. 1,82,52,392/- to the total income of the assessee without considering the fact that the same was mere present market value of the said assets taken by the Bank to assess the value of security held against the loan given to the assessee and the book value of assets represents amounts in the books which were the actual cost for acquiring of assets or purchase cost less depreciation, as applicable.We note that Assessing Officer has not considered accounting norms and principles and standards as laid down from time to time as the amounts of assets represented in the books is always the depreciated value of historical cost of asset and never the market value of the same.We note that the ld. Assessing Officer failed to specify any provisions of the Income Tax Act under which the differences between Book value of assets and value assessed by the Banker for security valuation can be treated as income of the assessee.Just to value the property by bank for the purpose of security against the loan given to the assessee does not give profit to the assessee. Having gone through the order of the ld. CIT(A) we note that there is no infirmity in the order passed by the ld. CIT(A). That being so, we decline to interfere in the order passed by the ld. CIT(A), his order on this issue, is hereby upheld and the grounds of appeal raised by the Revenue is dismissed.

8. In the result, the appeal of the revenue is dismissed.

Order pronounced in the Court on 29.01.2020

Sd/-	**Sd/-**
(S.S.GODARA)	**(A.L.SAINI)**
न्यायिकसदस्य / JUDICIAL MEMBER	**लेखासदस्य / ACCOUNTANT MEMBER**

कोलकाता /Kolkata;
दिनांक/ Date: 29/01/2020
(*SB, Sr.PS*)

Copy of the order forwarded to:
1. ITO, Ward-23(4), Hooghly
2. M/s Mother India Rice Mill.
3. C.I.T(A)-
4. C.I.T.- Kolkata.
5. CIT(DR), KolkataBenches, Kolkata.
6. Guard File.

True copy

By Order

Assistant Registrar
ITAT, Kolkata Benches