

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

**BEFORE WASEEM AHMED, HON'BLE ACCOUNTANT MEMBER &
SMT. MADHUMITA ROY, HON'BLE JUDICIAL MEMBER
(THROUGH VIRTUAL COURT)**

**आयकरअपीलसं./ITA No.1356/Kol/2019
(निर्धारणवर्ष / Assessment Year: 2012-13)**

RNT Plantation Ltd.	Vs.	DCIT, Circle-4(2), Kolkata
2nd Floor, 1st & 2nd Floor, Old Court House Corner, Lal Bazar, Kolkata-700001		
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AABCR 1876 K		
(Appellant)	..	(Respondent)

Appellant by : Smt. Nilima Joshi, Advocate
Respondent by : Shri Dhrubajyoti Roy, JCIT

सुनवाईकीतारीख/ **Date of Hearing** : **10/11/2020**

घोषणाकीतारीख/**Date of Pronouncement** : **16/12/2020**

आदेश / O R D E R

Per Smt. Madhumita Roy, JM:

The instant appeal filed by the assessee is directed against the order dated 03.05.2019 passed by the Commissioner of Income Tax Appeals-2, Kolkata arising out of the order dated 31.03.2015 by the DCIT, Circle-4(2), Kolkata under section 143(3) of the Income tax Act, 1961 (hereinafter referred to as "the act") for assessment year 2012-13.

2. The assessee challenges the disallowance of the carry forward of long term capital loss on sale of shares of Rs. 77,81,320/- (without STT). The assessee company purchased shares of Decoram Photoframes Ltd. for an amount of Rs. 78 lacs approx which was sold at Rs. 82,780/- to M/s Eleenbarrie Towers Ltd., Kolkata incurring long term capital loss of Rs. 77,81,320/- (without STT). During

the course of assessment proceedings only the bills were submitted before the Ld. Assessing Officer as it appears from the assessment order and no further document to substantiate the genuinity of such transaction and identity and creditworthiness of the purchaser were submitted. Hence in the absence of any other details, the loss claimed of Rs. 77,81,320/- was disallowed. In appeal, the same was confirmed by the Ld. CIT(A).

3. Ms. Nilima Joshi appearing for the appellant vehemently argued the matter in support of her case. It was contended by her that all the bills along with payment receipts, bank details were furnished before the Ld. Assessing Officer. Her case is this that the said Decoram Photoframes Ltd. had gone into liquidation due to winding up petition filed by the creditor; official liquidator was also appointed by the Hon'ble High Court. The said company had incurred huge losses total wiping off the net worth and as such the shares have been sold at the best possible price of Rs. 82,780/- incurring long term capital loss of Rs. 77,81,320/-. However, the entire aspect of matter has not been taken into consideration by the revenue and disallowance was wrongly made as of the submissions made by the Ld. A.R. On the other hand, the Ld. D.R Mr. Dhrubajyoti Roy relied upon the order passed by the authorities below.

4. Having heard the Ld. Representatives appearing for the respective parties and having regard to the facts and circumstances of the case, we find it fit and proper to restore the issue to the file of Ld. Assessing Officer to consider the same afresh for the ends of justice on the basis of the facts as stated above and also upon hearing the appellant and upon taking into consideration the relevant materials available on records and any other evidence that the assessee may choose to file at the time of hearing of the matter and to pass a reasoned order in accordance with law. Hence, this ground is allowed for statistical purposes.

5. The assessee further challenges the calculation in regard to the deduction u/s 80IE of the Act made at Rs. 1,74,43,552/- as against Rs. 2,23,18,449/- as claimed by the appellant.

6. Heard the parties and perused the records. It appears that the Ld. Assessing Officer while calculating the deduction u/s 80IE of the Act made the following working:

Less: Deduction u/s 80IE

i) Profit from Assam unit on own leaf (28.92% as declared) : Rs.9,46,524

ii) Profit from Assam unit on brought leaf (58.86% of 27559351)

(59.86% of total quantity brought out of total brought leaf as declared) :Rs.1,64,97,028/- :Rs. 1,74,43,552/-

Thus, it appears from the above that no explanation has been made by the Ld. Assessing Officer. No explanation assigned as to why 28.92% as the profit from Assam unit on own leaf has taken into consideration by him which is the sum and substance of the submission made by the Ld. Counsel for the assessee before us. The Ld. D.R, however, failed to controvert the same. We find substance in such argument made by the Ld. A.R and hence for the ends of justice. We find it fit and proper to restore the matter to the file of the Ld. Assessing Officer with a direction upon him to decide the issue in accordance with law and to pass a reasoned order, after giving an opportunity of being heard to the assessee and upon taking into consideration the evidence on record and any other evidence which the assessee may choose to file at the time of hearing of matter. The order is passed accordingly.

7. In the result assessee's appeal is allowed for statistical purposes.

Order pronounced in the Court on 16.12.2020

Sd/-

(WASEEM AHMED)

लेखा सदस्य / ACCOUNTANT MEMBER

कोलकाता /Kolkata;

दिनांक/ Date: 16/12/2020

(SB, Sr.PS)

Sd/-

(MADHUMITA ROY)

न्यायिक सदस्य / JUDICIAL MEMBER

Copy of the order forwarded to:

1. RNT Plantation Ltd.
2. DCIT, Circle-4(2), Kolkata
3. C.I.T(A)-
5. CIT(DR), Kolkata Benches, Kolkata.
6. Guard File.
4. C.I.T.- Kolkata.

True copy

By Order

Assistant Registrar
ITAT, Kolkata Benches