

IN THE INCOME TAX APPELLATE TRIBUNAL KOLKATA "C" BENCH, KOLKATA
(Virtual Court Hearing)

Before Sri J. Sudhakar Reddy, Accountant Member & Sri S.S. Godara, Judicial Member

I.T.A. No. 1795/KOL/2019

Assessment Year: 2013-14

Deputy Commissioner of Income Tax, Circle-2(2), KolkataAppellant

Vs

M/s West Bengal State Electricity Transmission Company Ltd.....Respondent

Vidyut Bhawan, Block-DJ

Sector-II, Salt Lake

Kolkata - 700 091.

[PAN :AAACW6952G]

Appearances by:

Shri Sanjay Bhattacharya, Advocate, appeared on behalf of the Appellant.

Shri Imokaba Jamir, CIT, D/R appeared on behalf of the Respondent.

Date of concluding the hearing : October 20th, 2020

Date of pronouncing the order : January 12th, 2021

ORDER

Per J. Sudhakar Reddy, AM :-

This appeal filed by the revenue is directed against the order of the Learned Commissioner of Income Tax (Appeals)-16, Kolkata (hereinafter the 'ld. CIT(A)'), passed u/s 250 of the Income Tax Act, 1961 (the 'Act') dt. 24/04/2019, for the assessment year 2013-14.

2. The sole ground of appeal involved in this appeal, reads as under:-

"That on the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the addition of Rs.18,24,41,000/- [Rs.20,93,39,000/- Rs.2,68,98,000/-] on account of receivables where the assessee follows the mercantile system of accounting and receipts and receivable amounts relating to the said year must be treated as income."

3. The ld. D/R submitted that the ld. CIT(A) failed to appreciate that the receivables in question had not passed through the profit and loss account. He drew the attention of the Bench to para 6 of the assessment order and specifically para 6.3 and submitted that the assessee has directly taken the

receivables to the balance sheet without routing the same through the profit and loss account. He submitted that the assessee has not furnished any evidence in support of the claim made before the Id. CIT(A) that the receipts are not income and that all the so called deposits are repayable.

4. The Id. Counsel for the assessee, on the other hand, submitted that, the assessee is a transmission company and the assessee has receivables from WBSEDCL, which is the distribution company. He submitted that the receivables are the deposit received from bulk customers by WBSEDCL which in turn gave this amount to the assessee company.

5. The Bench directed the assessee to file an detailed Note on the receivables from West Bengal State Electricity Distribution Co. Ltd. In response to assessee filed the following note:

EXPLANATORY NOTE ON RECEIVABLES FROM

WEST BENGAL STATE ELECTRICITY DISTRIBUTION CO. LTD. (WBSEDSCL)

In the Balance Sheet of the Respondent as on 31/03/2013 a sum of Rs.1,913.19 lakh was shown as Receivables from WBSEDCL. At the end of the preceding year on 31/03/2012 the Balance of Receivables had been Rs.1,782.51 lakh. The detailed Break-up of the Balances of Receivables of Rs.1,913.19 lakh was as under:

| | <u>Rs. in lakh</u> |
|--|---------------------------|
| (1) Leave Encashment | 391.78 |
| (2) PPSP Assets | 254.62 |
| (3) Agreement for Yard Lighting at Arambagh | 7.00 |
| (4) Materials given to Baruipur RE Project | 4.65 |
| (5) Materials given to Durgapur Division | 0.83 |
| (6) Commissioning of Transformer at TCF | 3.99 |
| (7) Materials given to Siliguri (O&M) S/D | 0.68 |
| (8) Medical Advance given from Howrah Area Office | 0.40 |
| (9) Emergency Restoration Work by Kharagpur Area Office at Bhasraghat on Subarnarekha River | 25.67 |
| (10) Deposit Works at Bulk Consumers supervised by WBSETCL | 1,220.01 |
| (11) Other Miscellaneous Receivables | <u>3.56</u> |
| | <u>As on 31/03/2013:</u> |
| | <u>1,913.19</u> |
| | <u>As on 31/03/2012 :</u> |
| | <u>1,782.51</u> |
| <i>Increase in the F.Y. 2012-13:</i> | <u>130.68</u> |

As regards the Balance of Receivables of Rs.1,220.01 lakh on account of Deposit Works of Bulk Consumers, the Respondent submits as under:

Very often several big industries had been approaching WBSEDCL for carrying out substantial works for the purpose of appropriate distribution of power through transmission of electricity and for that purpose the concerned industries deposited moneys with WBSEDCL. On the basis of WBSEDCL's request made to the Respondent, the works regarding transmission were used to be undertaken by the Respondent. The Respondent constructed new Transmission Towers and Transmission lines were laid for Transmission of Power. The concerned newly constructed Transmission Towers and the Transmission lines remained as assets owned by the Respondent. The deposits which had been received by WBSEDCL from various industries, became payable by WBSEDCL to the Respondent towards Grants in respect of the Cost of Construction of the relevant Transmission Towers and laying of the Transmission lines and also towards the Supervision Charges (@15% of the Total Cost as per the WBERC Regulations) payable to the Respondent as its Income. Therefore the concerned Deposits were being shown as Receivables from WBSEDCL in the Respondent's Accounts. On receiving the amounts from WBSEDCL the Receivables were reduced by the amounts received. The cost of Construction of Transmission Towers and laying of Transmission lines were firstly reflected in the Respondent's Accounts as "Capital Work-in-Progress" and on completion of the Works of Construction of Transmission Towers and laying of Transmission lines, appropriate Transfers were used to be made from "Capital Work-in-Progress Account to Capital Assets" Account. Simultaneously, the Grant received for the Construction and laying of Transmission lines, were transferred to the concerned Capital Asset Account so that the relevant Capital Asset was disclosed on the basis of the net Cost (Total Cost as reduced by the Grant received). The Supervision Charges @15% of the Total Cost which had already been credited in the Accounts, were duly offered as Taxable Income of the Respondent of the respective years.

From the above explanations it may kindly be appreciated that "Receivables" from WBSEDCL had duly been apportioned towards the cost of the Capital Assets acquired and Supervision Charges earned by the Respondent. Hence, there could not remain any scope of further consideration of any alleged accrued income in the hands of the Respondent. Accordingly, it is prayed that the appellate decision of the Ld. Commissioner of Income-tax (Appeals)-16, Kolkata, holding that there could not be any addition of alleged income on the basis of the "Receivables", may kindly be upheld and the Departmental Appeal in respect thereof may kindly be dismissed."

6. After perusing the above note, we are of the considered opinion that the matter should be restored to the file of the Assessing Officer for fresh adjudication de-novo in accordance with law, as the facts have to be verified. On the one hand, the assessee says that the transmission towers and the transmission lines which are constructed at the request of the distribution company and with the money given as deposits by the Distribution Company remain the assets of the assessee company, which has the transmission company, and the deposit received from the distribution company are paid to

the transmission company for the cost of construction of these transmission powers and transmission lines and also towards supervision charges of 15% of total cost. It also tells about grant. The Assessing Officer has to examine when the grant, in question, is income of the assessee or not. The Id. CIT(A) is wrong and coming to a conclusion that the deposits received are refundable when the assessee submits that this deposits are to be converted by the Distribution Company into grants to the assessee transmission company. In view of the above discussion, we restore the matter to the Assessing Officer for fresh adjudication in accordance with law. The AO has to examine as to whether the grant is a revenue grant or a capital grant.

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

Kolkata, the 12 January, 2021.

Sd/-
[S. S. Godara]
Judicial Member

Dated : 12 .01.2021
(SC, Sr.PS)

Copy of the order forwarded to:

1. Deputy Commissioner of Income Tax, Circle-2(2), Kolkata

2. M/s West Bengal State Electricity Transmission Company Ltd. Vidyut Bhawan, Block-DJ, Sector-II, Salt Lake, Kolkata – 700 091.

3. CIT(A)-
4. CIT- ,
5. CIT(DR),

True copy

Sd/-
[J. Sudhakar Reddy]
Accountant Member

By order

Assistant Registrar , Kolkata Benches