

आयकर अपीलिय अधिकरण, 'बी' न्यायपीठ, चेन्नई  
IN THE INCOME-TAX APPELLATE TRIBUNAL 'B' BENCH, CHENNAI  
श्री धुव्वुरु आर.एल रेड्डी, न्यायिक सदस्य एवं श्री जी. मंजुनाथा, लेखा सदस्य के समक्ष  
Before Shri Duvvuru RL Reddy, Judicial Member &  
Shri G. Manjunatha, Accountant Member

आयकर अपील सं./I.T.A. No. 1270/Chny/2019  
निर्धारण वर्ष/Assessment Year: 2007-08

M/s. Aircel Cellular Limited,  
Spencer Plaza, 5<sup>th</sup> Floor, 769,  
Anna Salai, Chennai 600 002.  
**[PAN:AAACR5136R]**

The Deputy Commissioner of  
Vs. Income Tax, Corporate Circle 1(1),  
Chennai.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri Ashik Shah, C.A.  
प्रत्यर्थी की ओर से/Respondent by : Shri S. Bharath, CIT  
सुनवाई की तारीख/ Date of hearing : 20.01.2021  
घोषणा की तारीख /Date of Pronouncement : 19.02.2021

**आदेश /O R D E R**

**PER DUVVURU RL REDDY, JUDICIAL MEMBER:**

This appeal filed by the assessee is directed against the order of the Id. Commissioner of Income Tax (Appeals) 4, Chennai, dated 31.01.2019 relevant to the assessment year 2007-08. Besides raising various grounds, the assessee mainly challenged the exparte order passed by the Id. CIT(A) without affording sufficient opportunity of being heard and without addressing the grounds of appeal on merits.

2. Brief facts of the case are that the assessee has filed its return of income 31.10.2007 for the assessment year 2007-08 admitting total

income of 2,46,94,134/- after claiming deduction under section 80IA of the Income Tax Act, 1961 ["Act" in short] at ₹.125,24,34,727/-. Since the tax payable under section 115JB of the Act was more than the tax payable under normal provisions, the assessee paid tax under section 115JB of the Act, which was processed under section 143(1) of the Act. However, on perusal of the computation of book profits, it was noticed that the assessee has not added back the provision made in the books of account for bad and doubtful debts amounting to ₹.3,74,75,663/-. Since, as per the amended provisions of section 115JB of the Act, vide Finance Act, 2009 with retrospective effect from 01.04.2001, any amount set aside as provision for diminution in the value of any asset is to be added back to the book profits in terms of clause (i) to Explanation 1 to section 115JB of the Act, the Assessing Officer issued notice under section 148 of the Act. In response to the notice, the assessee filed a return of income on 04.03.2010 admitting revised book profit of ₹.127,17,75,519/- adding the provision for doubtful debts of ₹.3,74,75,663/-. Further, the assessed filed a letter dated 22.03.2010 requesting to furnish reasons for reopening the assessment. The reason for reopening the assessment was furnished to the assessee. After considering the details submitted by the assessee in response to statutory notices, the assessment under section 143(3) r.w. section 147 of the Act was completed by assessing total income of the

assessee at ₹.8,23,13,781/- under normal provisions and ₹.131,07,78,089/- under section 115JB of the Act. On appeal, after considering the written submissions of the assessee that the Hon'ble Madras High Court issued moratorium on all IT proceedings till the disposal of the Corporate Insolvency Resolution Proceedings [CIRP], the Id. CIT(A) dismissed the appeal.

3. On being aggrieved, the assessee is in appeal before the Tribunal. By referring to the specific ground raised in the grounds of appeal at ground No. 1.4, the Id. Counsel for the assessee has submitted that the Id. CIT(A) has not provided sufficient opportunity of being heard and without addressing the grounds of appeal on merits, which is against the principles of natural justice and prayed for suitable directions by giving an opportunity of being heard to the assessee. Per contra, the Id. DR strongly supported the order passed by the Id. CIT(A).

6. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below. Against various additions made in the assessment order passed under section 143(3) r.w. section 147 of the Act for the assessment year under consideration, the assessee preferred appeal before the Id. CIT(A). On perusal of the appellate order, we find that despite giving various opportunities from

13.11.2018 to 30.01.2019, there was no response from assessee's side and by clubbing the appeals for other assessment years, the Id. CIT(A) dismissed all the appeals after considering the written submissions of the assessee. Since the Id. Counsel for the assessee made a submission that the assessee was not provided sufficient opportunity of being heard and not addressed the grounds of appeal on merits, we remit the matter back to the file of the Id. CIT(A) to adjudicate the issues on merits in accordance with law by affording an opportunity of being heard to the assessee.

7. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on the 19<sup>th</sup> February, 2021 in Chennai.

Sd/-  
(G. MANJUNATHA)  
ACCOUNTANT MEMBER

Sd/-  
(DUVVURU RL REDDY)  
JUDICIAL MEMBER

Chennai, Dated, 19.02.2021

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to: 1. अपीलार्थी/Appellant, 2. प्रत्यर्थी/ Respondent, 3. आयकर आयुक्त (अपील)/CIT(A), 4. आयकर आयुक्त/CIT, 5. विभागीय प्रतिनिधि/DR & 6. गार्ड फाईल/GF.