

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "B": HYDERABAD
(THROUGH VIRTUAL CONFERENCE)**

**BEFORE SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER
and
SHRI DUVVURU R.L. REDDY, JUDICIAL MEMBER**

ITA No. 685/H/2019 Assessment Year: 2014-15	
SSPDL Infrastructure Developers Pvt. Ltd., Hyderabad. PAN - AAKCS 6560 Q (Appellant)	` (Respondent)
	Dy. Commissioner of Income-tax, Circle - 3(2), Hyderabad.
Assessee by:	SHRI H. Srinivasulu
Revenue by	Shri YVST Sai
Date of hearing:	15/04/2021
Date of pronouncement:	25/06/2021

ORDER

PER L.P. SAHU, A.M.:

This appeal filed by the assessee is directed against Pr. CIT - 3, Hyderabad's order dated 26/02/2019 involving proceedings u/s 263 of the Income- Tax Act, 1961; in short "the Act.

2. Briefly the facts of the case are that the assessee company, engaged in the business of construction of hotel building, filed its return of income for the AY 2014-15 on

15/12/2014 declaring a total income at Rs. 2,14,09,110/-. Subsequently, the case was selected for scrutiny and statutory notices were issued to the assessee, against which, the assessee furnished the information as called for. After verification of the information furnished, the AO completed the assessment u/s 143(3) of the Act on 02/12/2016 accepting the returned income of the assessee.

3. Thereafter, the Pr.CIT-3 exercising his powers vested u/s 263 of the Act, called for the assessment records of the assessee for the impugned AY and on examination of the same, he had noticed and observed that the reasons for selection of scrutiny has not been properly examined by the AO during the course of assessment proceedings. He further observed that in the Note of Balance Sheet, the assessee has converted compulsory convertible debentures of Rs. 26,19,91,450/- into shares for Rs. 19,44,91,450/- and the basis for such valuation was not examined by the AO during the course of assessment proceedings. Since the AO had not examined the issue properly while completing the assessment, Pr. CIT held that the order passed by the AO is erroneous and prejudicial to the interests of revenue and therefore, set aside the order and directed the AO to redo the assessment order in accordance with law after providing reasonable opportunity of being heard to the assessee.

4. Aggrieved by the order of Pr. CIT, the assessee is in appeal before the ITAT.

5. Before us, the Id. AR of the assessee submitted that there was no share premium received by the assessee during the year and reiterated the submissions made before the authorities below. Further, he submitted that it was a mistake in filling/furnishing the information in the appropriate columns of the income tax return, which has been corrected through filing of revised return.

6. On the other hand, the Id. CIT-DR relied on the order of Id. Pr.CIT and submitted that the order passed by the AO is erroneous and prejudicial to the interests of revenue. He submitted that the AO has not examined the reasons for selection of scrutiny and the consequential order passed by the AO in pursuance to the directions of the Pr. CIT u/s 263 dated 31/12/2019 added an amount shown under the securities premium reserve of Rs. 19,44,91,450/-.

7. After hearing both the parties and perusing the material on record, the Pr. CIT has observed that the scrutiny assessment order passed by the AO u/s 143(3) of the Act is erroneous and prejudicial to the interests of revenue. On going through the audited financial statement of the assessee at Note No. 2 during the impugned AY, under the head, there is opening balance of securities

premium amount of Rs. 19,44,91,450/-, which has come from the previous FY i.e. 2012-13 relevant to AY 2013-14 and there were no further transactions. There is no change in the share capital account which stood at Rs. 1,35,08,560/- in the current AY 2014-15. The share premium cannot be received without raising the share capital. It is a previous financial year's i.e. 2012-13 amount of Rs. 1,35,08,560/-. In view of this, the allegation made by the Pr. CIT that the assessee has received share premium is wrong. We find that the assessee has also filed revised return on 15/12/2014 which is commensurate with the audited balance sheet placed in the paper book. Therefore, in our considered opinion, the order passed by the AO is not erroneous and prejudicial to the interests of revenue. Hence, the order passed by the Pr. CIT u/s 263 is hereby quashed and the order of the AO is restored.

8. In the result, appeal of the assessee is allowed in above terms.

Pronounced in the open court on 25th June, 2021.

Sd/-
(DUVVURU R.L. REDDY)
JUDICIAL MEMBER

Sd/-
(L.P. SAHU)
ACCOUNTANT MEMBER

Hyderabad, Dated: 25th June, 2021.

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copy to :

<i>1</i>	<i>M/s SSPDL Infrastructure Developers Pvt. Ltd., H.No. 8-2-595/3/6, Eden Gardens, Road No. 10, Banjara Hills, Hyderabad – 34.</i>
<i>2</i>	<i>DCIT, Circle – 3(2), Room No. 513, 7th Floor, Signature Towers, Opp. Botanical Gardens, Kondapur, Hyderabad.</i>
<i>3</i>	<i>Pr. CIT – 3. Hyderabad.</i>
<i>4</i>	<i>ITAT, DR, Hyderabad</i>
<i>5</i>	<i>Guard File.</i>