

**IN THE INCOME TAX APPELLATE TRIBUNAL**

**'B' BENCH : BANGALORE**

**BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER**

**AND**

**SMT. BEENA PILLAI, JUDICIAL MEMBER**

<b>ITA No. 2730/Bang/2017</b>
<b>Assessment Year : 2009-10</b>

M/s Yuken India Ltd., PB No.05, Kopathimmanahalli Village, H Hoskote Gram Panchayat, Lakkur Hobli, Malur Taluk, Kolar District Karnataka-563 130. <b>PAN – AAACY 1160 E</b>	<b>Vs.</b>	The Dy. Commissioner of Income-Tax, LTU, Circle-1, Bengaluru.
<b>APPELLANT</b>		<b>RESPONDENT</b>

Assessee by	:	Shri K.R Vasudevan, Advocate.
Revenue by	:	Shri Priyadarshi Mishra, Addl. CIT(DR)

Date of Hearing	:	21-06-2021
Date of Pronouncement	:	15-07-2021

**ORDER**

**PER BEENA PILLAI, JUDICIAL MEMBER**

Present appeal has been filed by assessee against the order passed by the Ld.CIT(A)-14, Bangalore for assessment year 2009-10.

2. It has been submitted that the Ld.CIT(A) passed order on the issues arising out of order section 154 by the Ld.AO.

2.1 He submitted that the Ld.AO passed rectification order as the provision for outstanding derivatives contract written back and the provision for doubtful debts was not added back. This led to the MAT computation for year under consideration. He submitted that assessee should not be penalised for non disclosure of MAT computation for assessment year 2008-09. It was submitted that these pertain to asst. year 2008-09.

2.2 The Ld.CIT(A) while rejecting assessee's argument was of the view that the provisions disallowed under MAT does not arise for year under consideration, as it pertains to assessment year 2008-09.

2.3 Aggrieved by the order of Ld.CIT(A) assessee is in appeal before us now.

2.4 The Ld.AR submitted that, provisions for derivative contract was disallowed in the previous assessment year considering it to be contingent liability. He submitted, that during the year under consideration the provision for derivative contract was written back since the same was disallowed and the previous year as a contingent liability. He submitted that, it ought to have been considered as deemed to be disallowed as an ascertained liability in assessment year 2008-09 even under MAT computation and accordingly the same should be reduced while computing the book profits for assessment year 2009-10.

2.5 On the contrary, Ld.Sr.DR submitted that the assessment year 2008-09 is not before consideration and therefore the argument cannot be as appreciated.

3. We have perused submissions advanced by both sides in the light of records placed before us.

3.1 Admittedly, the provisions for outstanding derivatives contract written back was reduced from the book profits for asst. year 2008-09 cannot be allowed for the reason that the appellant was assessed to tax under the regular provisions of the act for assessment year 2008-09. It is also a fact that for assessment year 2008-09, the Ld.AO made additions for the said provision under the normal provisions of the Act. It is also noted that MAT provisions were not applicable to assessee in the asst. year 2008-09. However the argument of assessee to treat it as a deemed disallowance under MAT for asst. year 2008-09 can't be accepted.

3.2 We therefore do not find any infirmity in the view taken by the Ld.CIT(A) that any reversal of such provision in a subsequent assessment year was to be considered as usual treatment in tax, and the same does not fall within the ambit of "overlooking of statutory provisions". This under no circumstances could be deemed as failure to compliance of statutory provisions by the Ld.AO which could be rectified u/s 154 of the Act.

**Accordingly the grounds raised by assessee stands dismissed.**

**In the result appeal filed by the stands dismissed.**

Order pronounced in open court on 15<sup>th</sup> July, 2021.

Sd/-

(CHANDRA POOJARI)

Accountant Member

Bangalore,

Dated, the 15<sup>th</sup> July, 2021.

Sd/-

(BEENA PILLAI)

Judicial Member

/Vms/

**Copy to:**

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT, Bangalore
6. Guard file

By order

Assistant Registrar, ITAT, Bangalore