

**IN THE INCOME TAX APPELLATE TRIBUNAL
“A”BENCH: BANGALORE**

**BEFORE SHRI B. R. BASKARAN, ACCOUNTANT MEMBER
AND
SMT. BEENA PILLAI, JUDICIAL MEMBER**

ITA No.1850/Bang/2017
AssessmentYear:1993-94

M/s. Comfund Consulting Ltd. (Formerly known as Comfund Financial Services Pvt. Ltd.) 404/2, 7 th Main, 9 th Cross, Jayanagar II Block Bangalore 560 011 PAN NO : AAACC6114G	Vs.	Deputy Commissioner of Income-tax Circle-2(1)(1) Bangalore
APPELLANT		RESPONDENT

Appellant by	:	Shri B.R. Sudheendra, A.R.
Respondent by	:	Shri Sumer Singh Meena, D.R.

Date of Hearing	:	11.01.2022
Date of Pronouncement	:	11.01.2022

O R D E R

PER B.R. BASKARAN, ACCOUNTANT MEMBER:

The assessee has filed this appeal challenging the order dated 19.6.2017 passed by Ld. CIT(A)-2, Bengaluru and it relates to the assessment year 1993-94. The assessee is challenging the decision of Ld CIT(A) in confirming the addition of Rs.45.69 crores made by the AO u/s 41(1) of the Income-tax Act,1961 ['the Act' for short].

2. At the time of hearing, the Ld. A.R. submitted that the assessee company has since been disallowed by the order dated 3.12.2021 passed by National Company Law Tribunal, Bengaluru

Bench (NCLT) in IA No.114 of 2021 in CP(IB) No.202/BB/2020. The Ld. A.R. submitted that the Income Tax Department was a party in the committee of creditors formed by NCLT. He submitted that the NCLT has recorded the fact that the assessee company does not have any asset. Accordingly, the Ld. A.R. submitted that outstanding dues cannot be recovered by the department as the assessee company has been dissolved. The Ld A.R further submitted that the assessee herein is a public limited company and hence the provisions of sec.179 are also not applicable to it. Accordingly, he submitted that the demands raised by the income tax department shall become infructuous and accordingly prayed for allowing the appeal of the assessee on the above discussed reasons.

3. The Ld. D.R. submitted that the A.O. was not aware of the order passed by National Company Law Tribunal and accordingly, he prayed that all the matters may be restored to his file for dealing with them in accordance with law.

4. Having heard the rival submissions, we find merit in the contentions of the Ld. D.R. Accordingly, we restore all the issues contested by the assessee in the present appeal and also the fact of dissolution of the assessee company by NCLT, which was brought to our notice by Ld. A.R., to the file of the A.O., so that he could take appropriate decision on the outstanding demand in accordance with law.

5. In the result, the appeal filed by the assessee is treated as allowed for statistical purposes.

Order pronounced in the open court on 11th Jan, 2022

Sd/-
(Beena Pillai)
Judicial Member

Sd/-
(B.R. Baskaran)
Accountant Member

Bangalore,
Dated 11th Jan, 2022.
VG/SPS

Copy to:

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

By order

Asst. Registrar,
ITAT, Bangalore.