

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
MUMBAI BENCH “G”, MUMBAI**

**BEFORE SHRI KULDIP SINGH, JUDICIAL MEMBER  
AND  
SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER**

**ITA No.2864/M/2017  
Assessment Year: 2012-13**

Dy. Commissioner of Income Tax, Central Circle – 32, Central Range -3, Room No.1913, 19 <sup>th</sup> Floor, Air India Building, Nariman Point, Mumbai - 400021	Vs.	M/s. Glodyne Technoserve Ltd., 53/2476, Radheshyam Apartments, Gandhi Nagar, Bandra (East), Mumbai – 400 051 <b>PAN: AAACP6847P</b>
(Appellant)		(Respondent)

**Present for:**

Assessee by : None  
Revenue by : Shri Shyam Prasad, D.R.

Date of Hearing : 20 . 06 . 2022  
Date of Pronouncement : 20 . 06 . 2022

**O R D E R**

**Per : Kuldip Singh, Judicial Member:**

The appellant, Dy. Commissioner of Income Tax, Mumbai (hereinafter referred to as ‘the Revenue) by filing the present appeal, sought to set aside the impugned order dated 30.03.2017 passed by Commissioner of Income Tax (Appeals)-51, Mumbai [hereinafter referred to as the CIT(A)] qua the assessment year 2012-13 on the grounds inter alia that :-

*“On the facts and circumstances of the case, the CIT(A) erred in deleting the disallowances Rs.246,95,45,400/- made by the Assessing*

*Officer on account of various expenses claimed and also out of purchases shown by the assessee ignoring the fact that only the expenditure incurred wholly and exclusively for business purpose can be allowed to be debited in the books so as to claim the said expenditure as business expenditure u/s 37 of the IT Act and the assessee has failed to substantiate the claim of said expenditures with documentary evidences and also the assessee has failed to prove the genuineness of purchases made from certain parties.*

*2. The appellant craves to leave, to add, to amend and / or to alter any of the ground of appeal, if need be.*

*3. The appellant, therefore, prays that on the grounds stated above, the order of the CIT(A)-51, Mumbai, may be set aside and that of the Assessing Officer restored”*

2. Briefly stated facts necessary for adjudication of the controversy at hand are : M/s. Glodyne Technoserve Ltd. (hereinafter referred to as ‘the assessee’) is a limited company being into the business of information technology services. Assessee company has filed its return of income declaring total income of Rs.14,22,31,038/-, which was processed under section 132/131 of the Income Tax Act, 1961 (for short ‘the Act’) was later subjected to scrutiny. During the course of assessment, Assessing Officer (AO) called for various details from the assessee pertaining to different expenses debited to the P&L Account, however, assessee furnished such details only at the fag end of the limitation period and consequently the AO disallowed 20% of all the expenses debited to the P&L Account amounting to Rs.261,17,76,440/- and thereby framed the assessment under section 143(3) of the Act.

3. Assessee carried the matter before the Ld. CIT(A) by way of filing appeal who has partly allowed the same. Feeling aggrieved

the assessee has come up before the Tribunal by way of filing present appeal.

4. Despite issuance of the notice to the assessee company none appeared on behalf of it, so the Bench decided to decide this appeal on the basis of material available on record with the assistance of the Ld. D.R. for the Revenue.

5. We have heard the Ld. Departmental Representative for the Revenue, perused the orders passed by the Ld. Lower Revenue Authorities and documents available on record in the light of the facts and circumstances of the case and case law relied upon.

6. At the very outset, it is brought to the notice of the Bench by the Ld. D.R. for the Revenue that assessee company has already wound up and official liquidator has been appointed with all the powers under the Company Act, 1956 to take charge of the records and assets of the assessee company and to conduct its affairs in the course of its winding up by the Hon'ble Bombay High Court in Company Petition No.179 of 2013 and 92 of 2014 vide order dated 16.04.2015. Copy of order passed by Hon'ble Bombay High Court (supra) is brought on record.

7. In view of the matter, we are of the considered view that under section 94A of the Act "Winding up" means winding up under Insolvency & Bankruptcy (I & B) Code, 2016. Legislator by way of amendment in the I&B Code, 2016 made it clear that the word "winding up" mentioned in the Companies Act, 2013 is synonymous to the word "Liquidation" as mentioned in the I&B Code, 2016.

8. So we are of the considered view that once the winding up proceedings have already been completed against the assessee company present appeal filed by the Revenue is not maintainable in the present format as the liquidator has not come up before the Tribunal despite numerous notices since 16.04.2015 to file the amended form 36A in the present appeal. So in these circumstances present appeal is not maintainable in the present format.

9. Resultantly, aforesaid appeal is dismissed being not maintainable at this stage, with liberty to file fresh appeal in proper format duly verified by the person authorized or to get the present appeal restored by moving an application.

**Order pronounced in the open court on 20.06.2022.**

**Sd/-**  
**(S. RIFAUR RAHMAN)**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**(KULDIP SINGH)**  
**JUDICIAL MEMBER**

Mumbai, Dated: 20.06.2022.

\* Kishore, Sr. P.S.

Copy to: The Appellant  
The Respondent  
The CIT, Concerned, Mumbai  
The CIT (A) Concerned, Mumbai  
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.