

IN THE INCOME TAX APPELLATE TRIBUNAL

(DELHI BENCH 'H' : NEW DELHI)

**BEFORE SH. G.S.PANNU, HON'BLE PRESIDENT
AND
SH. ANUBHAV SHARMA, JUDICIAL MEMBER**

ITA No.7174/Del/2019
(Assessment Year : 2016-17)

Woolways (India) Limited (a Company under Corporate Insolvency Resolution Process under Insolvency and bankruptcy Code, 2016) 606, New Delhi House, 27 Barakhamba Road, New Delhi-110001 PAN No. AAACW0286B	Vs.	ACIT, Circle-27(2) New Delhi
(APPELLANT)		(RESPONDENT)

Assessee by	Sh. Sajeve Bhushan Deora, Advocate
Revenue by	Shri Mrinal Kumar Dass, Sr. DR

Date of hearing:	22.06.2022
Date of Pronouncement:	30 .06.2022

ORDER

PER ANUBHAV SHARMA, JM:

The assessee has come in appeal against order dated 08.07.2019 in appeal no. 9/10467/18-19 for the assessment year 2016-17 passed by

Commissioner of Income Tax (Appeals)-9, New Delhi (hereinafter referred to as the 'First Appellate Authority' or in short 'Ld. F.A.A.')

in appeal before it against order dated 29.12.2018 u/s 143(3) of the Income Tax Act, 1961 passed by ACIT, Circle 27(2), Delhi (herein after referred to as 'Ld. Assessing officer or in short Ld. AO').

2. The assessee had filed return of income declaring loss and the case was selected for complete scrutiny. The Ld. Assessing Officer observed that TDS amount of Rs. 4,17,23,404/- has been deducted but not deposited therefore, an amount of Rs. 1,25,17,021/- i.e. 30% of the expense was disallowed u/s 40(a)(ia) of the Act. The appeal preferred by the assessee was also dismissed by Ld. CIT(A).

3. Now before the Tribunal the assessee had raised various grounds and primary ground being that the company is under Corporate Insolvency Resolution Process under Insolvency and Bankruptcy Code, 2016. Therefore, the company in spite of having evidence of deposit of TDS could not represent its case before the lower tax Authorities. On hearing Ld. Counsel for the assessee and Ld. DR, the Bench is of considered view that at page no. 44 of the paper book assessee has given certain details of the challans by which the TDS was deposited in the relevant assessment year. However, the same have not been considered by the Ld. Tax Authorities below as the case of company may not have been appropriately represented due to ongoing insolvency proceedings. Therefore the ends of justice require verification of the fact of deposit of TDS by the challans referred to in page no. 44 of the paper book.

4. Accordingly, the order of Ld. Tax Authorities below are set aside and the issue is restored to the files of ld. AO with direction to verify the deposit of challans of TDS while giving opportunity of hearing to the assessee and there upon pass afresh order.

Order pronounced in the open court on 30th June, 2022.

Sd/-
(G.S.PANNU)
PRESIDENT

Sd/-
(ANUBHAV SHARMA)
JUDICIAL MEMBER

Date:- 30.06.2022

Binita, SR.P.S

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI