

आयकर अपीलीय अधिकरण "ए" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, PUNE

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER
AND
SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.119/PUN/2021
निर्धारण वर्ष / Assessment Year : 2016-17

Jaibalaji Business Corporation Pvt. Ltd.,
B-105, Kalpataru Plaza,
224 Bhawani Peth,
Pune – 411042

PAN : AACCCJ5284G

.....अपीलार्थी / Appellant

बनाम / V/s.

Principal Commissioner of Income Tax-4,
Pune

.....प्रत्यर्थी / Respondent

Assessee by : Ms. Vinita Shah
Revenue by : Shri Abhinay S. Kumbhar

सुनवाई की तारीख / Date of Hearing : 19-07-2022
घोषणा की तारीख / Date of Pronouncement : 21-07-2022

आदेश / ORDER

PER S.S. VISWANETHRA RAVI, JM :

This appeal by the assessee against the order dated 31-03-2021 passed u/s. 263 of the Act by the Principal Commissioner of Income Tax-4, Pune ("PCIT") for assessment year 2016-17.

2. At the outset, we note that the PCIT initiated 263 proceedings by issuing notice to the assessee on two issues. One issue is that difference of value between agreement and stamp duty to an extent of Rs.3,45,60,500/- and held the order of AO passed u/s. 143(3) of the Act is erroneous and prejudicial to the interest of revenue for lack of verification. The ld. AR fairly conceded that the assessee is not interested to contest the issue. Therefore, taking into consideration such submissions, we hold the order of PCIT is justified in holding the assessment order dated 28-08-2018 in respect of non-verification of details regarding the agreement value and stamp duty value is held to be erroneous and prejudicial to the interest of revenue.

3. Regarding second issue about the claim of income from sale of Renewable Energy Certificate of Rs.46,90,000/- as exempt, the PCIT for lack of enquiry held the assessment order is erroneous and prejudicial to the interest of revenue, but however, it was contended by the assessee before the PCIT that the entire income as derived from sale of Renewable Energy Certificate is capital receipt and not chargeable to tax. We note that the assessee placed reliance on several case laws by contending the sale of carbon credits is to be considered as capital receipt. The CIT(A) reproduced such case laws in the impugned order at Page No. 8. It is not disputed by the ld. DR that the income derived from sale of Renewable Energy Certificate is not chargeable to tax, since, it is a capital receipt not chargeable to tax could not be held as a point for consideration for initiating proceedings u/s. 263 of the Act. Therefore, the order of PCIT on

this issue on holding the assessment order dated 28-08-2018 is erroneous and prejudicial to the interest of revenue is not justified.

4. In the result, the appeal of assessee is partly allowed.

Order pronounced in the open court on 21st July, 2022.

Sd/-
(Inturi Rama Rao)
ACCOUNTANT MEMBER

Sd/-
(S.S. Viswanethra Ravi)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 21st July, 2022.
रवि

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The PCIT-4, Pune
4. The Addl. CIT, Range-7, Pune
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "ए" बेंच,
पुणे / DR, ITAT, "A" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

वरिष्ठ निजी सचिव / Sr. Private Secretary
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune