

INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "C": NEW DELHI
**BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER
AND
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

**ITA No. 3419/Del/2018
(Assessment Year: 2013-14)**

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| Gujral Design Plus Overseas Pvt. Ltd, 16, Feroz Gandhi Road, Lajpat Nagar-III, New Delhi (Appellant) | Vs. | Pr. CIT-4, New Delhi (Respondent) |
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PAN: AAACG2661A

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| Assessee by : | None |
| Revenue by: | Ms. Anjula Jain, CIT DR |
| Date of Hearing | 13/09/2022 |
| Date of pronouncement | 22/09/2022 |

ORDER

PER ANUBHAV SHARMA, J. M.:

1. The appeal has been preferred by the Assessee against the order dated 05.03.2018 of Ld. Pr. Commissioner of Income Tax-4, New Delhi (hereinafter referred as Pr. CIT or Ld Revisional Authority) passed u/s 263 of the Income Tax Act, 1961 (hereinafter referred as 'the Act').
2. Brief facts of the case is that the Assessee filed return of income on 30.09.2013 declaring total income of Rs. 1,56,93,670/- which was selected for scrutiny and following additions were made viz: (i) on account of disallowances u/s 14A, (ii) on account of disallowance of commission paid to directors and (iii) additions on account of Wealth Tax Payment. The Ld CIT(A) however found that the assessment order dated 29.03.2016 is erroneous and prejudicial to the interest of revenue because the AO had allowed the claim of loss of Rs. 21,58,220/- while the Assessee company

had made provision for loss on investment. After giving opportunity of hearing to the Assessee vide notice dated 20.02.2018 and taking the submission of the Assessee on record the Ld. Revisional Authority directed the AO to revise the assessment and enhance the total income of Rs. 21,58,220/-. The Id CIT(A) was of the opinion that the provision for loss on investment was unascertained liability and Assessee had not clarified on what basis it has estimated the loss to be 25% of the total amount invested with M/s. India Infoline Ltd. The Ld. Revisional Authority also observed that at one end in computing the book profit u/s 115JB of the Act this amount was treated as unascertained liability or provision only and added to the book profit. On the other hand the Id AO has not mentioned any reason as to why the same provision was not added back to the income of the Assessee under the normal provision of the Act.

3. The Assessee has challenged the order by raising following grounds of appeal:-

1. *The learned CIT has erred in directing addition Rs 21,58,220 to the assessed income, by concluding the Loss on Investments as an unascertained expense just by relying on the 'Pre-fix of 'Provision' before the expense head*
 2. *The learned CIT has erred in ignoring the fact that the learned AO had allowed the expense after verifying that the company had already suffered an actual determined loss of more than Rs 21,58,220 on account of fraud and embezzlement by a third party against whom the company had initiated criminal proceeding and the Audited Accounts also state that actual loss already suffered could be more as investigations were still to be completed.*
 3. *The learned CIT, exercising his powers under the Act should have directed reduction the Provision of Loss on Investments of Rs21,58,220 determined as MAT income under section 115JB of the Act -though it was not an unascertained Expense."*
4. Heard and perused the record.
5. At the time of hearing on 13.06.2022 none appeared for the Assessee and notices were issued for 13.09.2022. Notices have been issued but none has appeared. It appears that the Assessee is not interested to prosecute

the appeal. Therefore, the arguments of the Id DR were heard and who have supported the finding of Ld. Revisional Authority.

6. Giving thoughtful consideration to the matter on record the bench is of considered opinion that there appears to be no illegality in the finding of the Ld. Revisional Authority. The Assessee's submission available at page No. 5 of the impugned order show that the Assessee had claimed of having suffered actual loss on investment of Rs. 21,58,220/- on account of some fraudulent activities of India Infoline Ltd. It is also mentioned that a post date cheque of this amount was given by the alleged accused Mr. Ghosh of India Infoline Ltd. The provision has been made for estimated loss without crystallisation of transaction and that makes it in nature of unascertained liability. These facts do not make the liability to be ascertained for which a provision would have been justified. Further, Ld. Revisional Authority has rightly observed that when Assessee has added back this disputed amount to the book profit u/s 115JB that infact amounts to an admission that it is unascertained liability. Therefore, there is no substance in the grounds of appeal.

7. **The appeal is dismissed ex parte.**

Order pronounced in the open court on 22/09/2022.

-Sd/-
(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER

-Sd/-
(ANUBHAV SHARMA)
JUDICIAL MEMBER

Dated: 22/09/2022
A K Keot

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi