

IN THE INCOME TAX APPELLATE TRIBUNAL “C” BENCH, MUMBAI

BEFORE SHRI B. R. BASKARAN, AM AND SHRI ABY T. VARKEY, JM

आयकर अपील सं/ I.T.A. Nos. 485 & 486/Mum/2022
(निर्धारण वर्ष / Assessment Years: 2016-17 & 2013-14)

M/s. PMT Machines Ltd. PO. Box No. 1102, Behind Pcmc Building, Mumbai Pune Road, Pimpri, Pune- 411018.	बनाम/ Vs.	ACIT, Central Cir-2(4) 802, 8 th Floor, Pratihtha Bhavan, Old CGO Annexe, Maharishi Karve Road, Mumbai-400020.
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AAACP4680L		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

Assessee by:	Mr. Rajnish K. Vohra
Revenue by:	Mr. Purushottam Tripuri (DR)

सुनवाई की तारीख / Date of Hearing: 03/10/2022
घोषणा की तारीख /Date of Pronouncement: 10/10/2022

आदेश / ORDER

PER ABY T. VARKEY, JM:

These are appeals preferred by the assessee against order of the Ld. Commissioner of Income Tax (Appeals)-48, Mumbai [hereinafter “CIT(A)”] dated 17.01.2022 for AY. 2013-14 and for AY. 2016-17.

2. The grounds of appeal preferred by the assessee in these appeals are as under: -

“1. The Learned CIT(A) erred in a confirming the addition of Rs 1,49,43,33,555 on account of additions to share capital and share premium account as unexplained cash credit u/s 68 of the Income Tax Act. Reasons assigned by him for confirming the same are wrong and insufficient. Therefore, Appellant prays for the deletion of additions confirmed by the Learned CIT(A)

2. The Learned CIT(A) erred in confirming the addition of Rs 17,86,01,265 by disallowing interest on ECB u/s 40(a)(i) of the Income Tax Act, 1961. Reasons assigned by him for Confirming the



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same are “wrong and insufficient. Therefore Appellant prays for the deletion of additions confirmed by the Learned CIT(A).

3. The Learned CIT(A) erred in confirming the addition of interest on Loans and Advances of Rs 15,44,71,197 on estimated basis. Reasons assigned by him for confirming the same are wrong and insufficient. Therefore Appellant prays for the deletion of additions confirmed by the Learned CIT(A).

4. The Learned CIT(A) erred in confirming the addition for administrative expenses of Rs 85,18,025 being 10% of the administrative expenses. Reasons assigned by him for confirming the same are wrong and insufficient. Therefore Appellant prays for the deletion of additions confirmed by the Learned CIT(A).

5. Order passed is bad in law and contrary to the provisions of the Act. Therefore, Appellant prays for the deletion of additions confirmed by the Learned CIT(A).

6. The appellant carves leave to add alter/modify the grounds of appeal.”

Grounds for AY. 2013-14

“1. The Learned CIT(A) erred in confirming returned income at Rs. Nil as against loss of Rs.34,18,21,073 (comprising of current year depreciation Rs.29,27,40,931/- and current year business loss Rs.4,90,80,142/-) filed by the appellant for AY. 2013-14. Reasons assigned by him for confirming the same are wrong and insufficient.

2. The Learned CIT(A) erred in confirming the reduction in Capital WIP by Rs.62,96,61,020/-. This amount is comprised as under: -

a. Rs.18,32,82,881/- being disallowed u/s 40(a)(i) on account of interest on External Commercial Borrowing (ECB) without considering the fact that the entire ECB has not been sourced from foreign entity.



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b. Rs.5,04,52,186/- being disallowance u/s 40(a)(i) on account of interest on term loan from L&T Finance Limited without appreciating the fact that TDS was deposited in April 2014 and accordingly the same should not have reduced from CWIP.

c. Rs.39,59,25,953/- being advances under Capital WIP. Reasons assigned by him for confirming the same are wrong and insufficient. Therefore, Appellant prays for the deletion of reduction in Capital WIP confirmed by the Learned CIT(A).

3. The learned CIT(A) erred in confirming the disallowance of proportionate Interest expenses of Rs.8,71,70,713/- which is calculated @ 12% p.a on Loans and Advances of Rs.72,64,22,611/-. Reasons assigned by him for confirming the same are wrong and insufficient. Therefore, Appellant prays for the deletion of disallowance confirmed by the Learned CIT(A).

4. The learned CIT(A) erred in confirming the disallowance of Professional fees paid to Bigline Trading Private Limited of Rs.1,50,40,000/-. Reasons assigned by him for confirming the same are wrong and insufficient. Therefore Appellant prays for the deletion of disallowance confirmed by the Learned CIT(A).

5. The learned CIT(A) erred in confirming the disallowance of Bad Debts and sundry balances written off of Rs.80,92,164/-.

Reasons assigned by him for confirming the same are wrong and insufficient. Therefore Appellant prays for the deletion of disallowance confirmed by the Learned CIT(A).

6. The learned CIT(A) erred in confirming the disallowance of Service Tax Expenses of Rs.52,93,968/- considering such expenses as pertaining to the years prior to the previous year. Reasons assigned by him for confirming the same are wrong and insufficient. Therefore Appellant prays for the deletion of disallowance confirmed by the Learned CIT(A).



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7. The learned CIT(A) erred in confirming the total investment for calculation of disallowance u/s 14A of the Income Tax Act, 1961.

The learned CIT(A) erred in confirming the disallowance of interest under Section 14A without reducing interest of Rs.16,70,74,784/- disallowed u/s 43B by the Appellant in the return of income filed and interest of Rs.8,71,70,713/- disallowed by ACIT.

Reasons assigned by him for confirming the same are wrong and insufficient.

8. The learned CIT(A) erred in confirming the non-giving of set-off of assessed brought forward unabsorbed depreciation of Rs.3,61,91,670/- in computation of total assessed income. Reasons assigned by him for confirming the same are wrong and insufficient.

9. The learned CIT(A) erred in confirming the non-giving of MAT Credit u/s 115 JAA in computation of total income. Reasons assigned by him for confirming the same are wrong and insufficient.

10. Order passed is bad in law and contrary to the provisions of the Act. Therefore, Appellant prays for the deletion of additions confirmed by the Learned CIT(A).

11. The appellant carves leave to add alter/modify the grounds of appeal.”

3. At the outset, the Ld. AR of the assessee brought to our notice that the Corporate Insolvency Resolution Process (CIRP) was initiated by the Ld. National Company law Tribunal (NCLT), Mumbai Bench, Court- III against the assessee company and by an order dated 22.10.2018 u/s 7 of the Insolvency and Bankruptcy Code 2016 (hereinafter referred to as “the Code”), Mr. Ram Ratan Kannongo was



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appointed as Interim Resolution Professional (RP). Later on, by order dated 03.06.2022 [I.A. No.1907 of 2021 in C.P. No.2469 of 2018, UCO Bank Vs. PMT Machines Ltd/assessee], the Ld. Tribunal (NCLT) has approved the Resolution Plan submitted by Ms. Monica Shah with effect from 03.06.2022. In the light of the order of the NCLT in the assessee's case (supra) which is binding on the department (Revenue) also, we are of the opinion that there is no point in keeping these appeals of assessee pending before this Tribunal. Therefore, we set aside the impugned orders of the Ld. CIT(A) for both the assessment years before us and remand the relevant assessments back to the file of the AO to take appropriate action denovo in accordance to law after taking into consideration the Resolution Plan approved by the Ld. NCLT (supra).

4. In the result, the appeals of the assessee are allowed for statistical purposes.

Order pronounced in the open court on this 10/10/2022.

Sd/-

(B. R. BASKARAN)
ACCOUNTANT MEMBER

Sd/-

(ABY T. VARKEY)
JUDICIAL MEMBER

मुंबई Mumbai; दिनांक Dated : 10/10/2022.
Vijay Pal Singh, (Sr. PS)



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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)-
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

**उप/सहायक पंजीकार /(Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai**