

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad ' A ' Bench, Hyderabad

Before Shri Rajpal Yadav, Vice-President and
Shri R.K. Panda, Accountant Member

ITA No. 147/Hyd/2022		
Assessment Year: 2018-19		
MBS Jeweller (P) Ltd Hyderabad PAN:AAECM7050M (Appellant)	Vs.	ACIT, Central Circle 3(1) Hyderabad (Respondent)
Assessee by:	Shri P. Murali Mohan Rao, CA	
Revenue by:	Shri KPRR Murthy, DR	
Date of hearing:	22/11/2022	
Date of pronouncement:	22/11/2022	

ORDER

Per R.K. Panda, A.M

This appeal filed by the assessee is directed against the order dated 31.3.2022 of the learned CIT (A)-11, Hyderabad relating to A.Y.2018-19.

2. Although a number of grounds have been raised by the assessee, however, these involve two issues i.e. (a) addition of Rs.2,50,875/- on account of delayed payment of PF & ESI and (b) addition of Rs.33,79,972/- being the difference in one time settlement which was treated as income from other sources.

3. So far as the first issue is concerned, the learned Counsel for the assessee did not press the same for which the

learned DR has no objection. Accordingly, the first issue raised by the assessee in the ground of appeal i.e. challenging the addition of Rs.2,50,875/- on account of delayed payment of PF & ESI etc., is dismissed as not pressed.

4. So far as the 2nd issue i.e. addition of Rs.33,79,972/- is concerned, facts of the case, in brief, are that the assessee company filed its return of income on 30.10.2018 declaring total net loss of (-) Rs. 1,71,34,313/-. During the course of assessment proceedings, the Assessing Officer noted from the computation statement filed by the assessee that it has shown an amount of Rs.4,79,97,610/- towards SBI one time settlement. The Assessing Officer issued a notice u/s 133(6) to the Branch Manager, SBI Koti Branch calling for required information. In response to the same, the Bank vide letter dated 20.04.2021 stated that the waiver amount is Rs.5,13,77,582/-. The Assessing Officer accordingly treated the difference of Rs.33,79,972/- (i.e. 5,13,77,582 – Rs.4,79,97,610/-) as income from business and added the same to the total income of the assessee.

5. In appeal, the learned CIT (A) confirmed the addition.

6. Aggrieved with such order of the learned CIT (A) the assessee is in appeal before the Tribunal.

7. The learned Counsel for the assessee at the outset referring to page 13 of the order of the CIT (A) wherein the reply received from SBI in response to notice u/s 133(6) has been reproduced submitted that due to some clerical error, the waiver amount has been mentioned at Rs.5,13,77,582/-. He submitted

that if the onetime settlement amount of Rs.12,32,60,999/- is reduced from the opening balance of Rs.17,12,58,608/- as on 01.04.2017, then the difference comes to Rs.4,79,97,610/-. Therefore, due to the inadvertent error committed by SBI, no addition should have been made in the hands of the assessee.

8. The learned DR, on the other hand, while supporting the order of the learned CIT (A) fairly conceded that there is an arithmetical error on the part of the Bank while deducting the amount of Rs.12,32,60,999/- from Rs.17,12,58,608/-.

9. We have heard the rival arguments made by both the sides and perused the record. A perusal of the letter received from SBI in response to notice u/s 133(6) reads as under:

The letter of SBI as received by the Assessing Officer u/s 133(6) is as under:

FOR ANALYSIS USE ONLY

The letter of SBI as received by the Assessing Officer u/s 133(6) is as under:



32570304802
Date: 22/04/2021

The Asst. Commissioner,
Income Tax Department,
Central Circle -3(1),
Hyderabad

Dear Sir,

Ref : YOUR LETTER NO ITBA/AST/S/133(6)/2021-22/1032436736(1) DATED 15/04/2021

This is with reference to your letter as stated above, we submit the following :

Mrs M B S Jewellers Private Limited A/c 32571034802. OIS was on Principal amount only and there was no interest on OIS amount

Opening Balance as on 01/04/2017	Rs 17,12,58,608.00	
Total amount outstanding as Principal only)	Rs 12,32,60,999.00	
One Time Settlement	Rs. 5,13,77,552.00	= 4.79
WAIVER Amount	Rs. 5,63,04,725.00	
Amount Paid by MBS Jewellers Pvt Ltd	Rs. 6,60,56,274.00	
OTS Balance Pending as 31/03/2018	Rs. 11,49,53,883.00	
Balance Outstanding as on 31/03/2018		

The borrower failed to pay the full OIS amount by 31/03/2018

Yours faithfully,

Asst. General Manager

HYDERABAD MAIN BRANCH
BANK STREET, KOTI
HYDERABAD - 500 095
BRANCH CODE : 00847
EMAIL : SBI00847@SBICL.CO.IN
SWIFT CODE : SBININ33
CONTACT NO:9849551001

10. If we deduct the onetime settlement amount of Rs.12,32,60,999/- from the opening balance as on 1/4/2017 of Rs.17,12,58,608/-, the difference comes to Rs.4,79,97,610/-. We find the lower authorities became very hyper technical and without considering the factual aspect or without asking the Bank as how such figure was arrived at went by the erroneous figure of SBI reproduced as above. We, therefore, accept the contention of the learned Counsel for the assessee that the actual one-time settlement amount is Rs.4,79,97,610/- as claimed in the return of income and computation statement. In this view of the matter, we set aside the order of the CIT (A) and the ground raised by the assessee on this issue is allowed.

11. In the result, appeal filed by the assessee is partly allowed.

Order pronounced in the Open Court on 22nd November, 2022.

Sd/- (RAJPAL YADAV) VICE-PRESIDENT	Sd/- (R.K. PANDA) ACCOUNTANT MEMBER
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Hyderabad, dated 22nd November, 2022.

Vinodan/sps

Copy to:

S.No	Addresses
1	MBS Jewellers (P) Ltd C/o P Murali & CO. C.A, 6-3-655/2/3 Somajiguda, Hyderabad 500082
2	ACIT Central Circle 3(1) Hyderabad
3	CIT (A)-11 ,Hyderabad
4	Pr. CIT- Central, Hyderabad
5	DR, ITAT Hyderabad Benches
6	Guard File

By Order