

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई  
IN THE INCOME-TAX APPELLATE TRIBUNAL 'C' BENCH, CHENNAI  
श्री वी. दुर्गा राव, न्यायिक सदस्य एवं श्री जी. मंजुनाथा, लेखा सदस्य के समक्ष  
Before Shri V. Durga Rao, Judicial Member &  
Shri G. Manjunatha, Accountant Member

आयकर अपील सं./I.T.A. No. 1442/Chny/2019  
निर्धारण वर्ष/**Assessment Year:2014-15**

Dhanroop Betala and Sons (HUF),  
Flat No. L-107, Oswal Garden,  
No. 210-212, C.B. Road, Korrukpet,  
Chennai 600 021.

The Principal Commissioner of  
Income Tax – 9,  
Chennai.

**[PAN:AACHD0325D]**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : None  
प्रत्यर्थी की ओर से/Respondent by : Shri M. Rajan, CIT  
सुनवाई की तारीख/ Date of hearing : 21.11.2022  
घोषणा की तारीख /Date of Pronouncement : 30.11.2022

**आदेश /O R D E R**

**PER V. DURGA RAO, JUDICIAL MEMBER:**

This appeal filed by the assessee is directed against the order of the Id. Principal Commissioner of Income Tax, Chennai, dated 21.11.2022 relevant to the assessment year 2014-15 passed under section 263 of the Income Tax Act, 1961 ["Act" in short].

2. Brief facts of the case are that the assessee filed its return of income for the assessment year 2014-15 on 29.03.2016 declaring an income of ₹.2,50,540/-. The return filed by the assessee was processed

under section 143(1) of the Act on 24.05.2016. Subsequently, the case was selected for scrutiny and assessment was completed under section 143(3) of the Act dated 16.12.2016 by accepting the income returned by the assessee.

3. Subsequently, the Id. PCIT, after examining the records, found that the assessee has transacted in various shares during the financial year 2013-14. On perusal of the contract notes relating to the shares transactions of the assessee, the Id. PCIT has observed that the shares of M/s. Luminaire Tech Ltd. (hereinafter referred to as the 'Luminaire') had been purchased in different tranches at varying rates of ₹. 47.67 on 24.12.2013 and ₹.32.63 and ₹.34.09 on 21.02.2014, when its price was on a downward spiral. These shares were sold on 10<sup>th</sup> March 2018 at the rate of ₹. 20.95, resulting in a loss within a span of three months. Similarly, the scrip of M/s Sunasian Ltd. (hereinafter referred to as the 'Sunasian') was also seen to have been purchased at a high rate of ₹.508.27 on 16.09.2013 and sold at lower rate of ₹. 489.07, once more resulting in substantial loss within a period of five months. The loss generated from the sale of these pennystocks like Luminaire and Sunasian had been utilised to set off the huge profit made from selling of shares of M/s. Raj T.V. Ltd. (hereinafter referred to as the 'Raj TV'). The

shares of Raj TV were sold during the same period when the purchase and sale of shares of scrips of Luminaire and Sunasian were undertaken. The Investigation Wing at Kolkata had conducted search & seizure and survey operations in the case of various brokers as well as entry and exit providers in Kolkata who had formed a syndicate of shell companies for the purpose of providing accommodation entries to beneficiaries to bring their unaccounted money into their books in the garb of purchase and sale of shares of shell companies. No prudent businessman would hold shares for two to three months and their make a loss. While the assessee had made a profit of ₹.92.27 lakhs on sale of shares of Raj TV, he had partly set it off by booking a loss of ₹. 20.98.lakhs by way of sale of pennystock shares of Luminaire and Sunasian. The AO however had not gone into this issue. After considering the submissions of the assessee against the show-cause notice issued under section 263 of the Act, the Id. PCIT has observed that the assessment order passed under section 143(3) of the Act is erroneous and prejudicial to the interest of the Revenue. Accordingly, the Id. PCIT has set aside the assessment order and directed the Assessing Officer to verify and investigate the profits earned by the assessee as also the losses booked through its dealings in the pennystock shares by using the data available in the investigation

report of the Investigation Wing at Kolkata and in accordance with law after giving an opportunity of being heard to the assessee.

4. On being aggrieved, the assessee carried the matter in appeal before the Tribunal. When the appeal was finally taken up for hearing on 21.11.2022, none appeared on behalf of the assessee or any adjournment petition filed. Hence, we proceed to decide the appeal on merits after hearing the Id. DR.

5. We have heard the Id. DR, perused the materials available on record and gone through the orders of authorities below. In this case, the assessment was completed under section 143(3) of the Act dated 16.12.2016. Subsequently, the PCIT, by exercising power conferred under section 263 of the Act, issued show-cause notice on the ground that the Assessing Officer has not gone into the issue of share transactions of the assessee and verify the profits earned by the assessee and the losses booked through the dealings in the pennystock shares. After considering the submissions of the assessee, the Id. PCIT has set aside the assessment order and directed the Assessing Officer to verify and investigate the profits earned by the assessee as also the losses booked through its dealings in the pennystock shares by using the data available in the investigation report of the Investigation Wing at

Kolkata and in accordance with law after giving an opportunity of being heard to the assessee. We have carefully gone through the revision order passed under section 263 of the Act and find that the Id. PCIT has rightly exercised his power conferred under section 263 of the Act and directed the Assessing Officer to pass fresh assessment order in accordance with law after verification of the profits earned by the assessee as also the losses booked through its dealings in the pennystock shares. Thus, we find no reason to interfere with the order passed by the Id. PCIT.

6. In the result, the appeal filed by the assessee is dismissed.

Order pronounced on the 30<sup>th</sup> November, 2022 in Chennai.

Sd/-  
(G. MANJUNATHA)  
ACCOUNTANT MEMBER

Sd/-  
(V. DURGA RAO)  
JUDICIAL MEMBER

Chennai, Dated, 30.11.2022

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to: 1. अपीलार्थी/Appellant, 2. प्रत्यर्थी/  
Respondent, 3. आयकर आयुक्त (अपील)/CIT(A), 4. आयकर आयुक्त/CIT, 5.  
विभागीय प्रतिनिधि/DR & 6. गार्ड फाईल/GF.