

IN THE INCOME TAX APPELLATE TRIBUNAL
"G" BENCH, MUMBAI

SHRI OM PRAKASH KANT, ACCOUNTANT MEMBER
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER

ITA No. 1118/MUM/2022
(Assessment Year: 2019-2020)

Worldline India Pvt. Ltd.,
2nd Floor, Tower-1,
Raiskaran Tech Park Phase II,
M.V. Road, Sakinaka, Andheri (E),
Mumbai - 400072
[PAN: AAACE2403] Appellant

Deputy Commissioner of Income Tax,
4(1)(1), Mumbai, Aayakar Bhavan,
Mumbai - 400020 Vs
..... Respondent

Appearances

For the Appellant/Assessee : Shri Madhur Agrawal,
Shri Fenil Bhatt
For the Respondent/Department : Shri Sanyam Suresh Joshi
Date of conclusion of hearing : 13.10.2022
Date of pronouncement of order : 05.01.2023

ORDER

Per Rahul Chaudhary, Judicial Member:

1. By way of the present appeal the Appellant has challenged the order, dated 29.04.2022, passed by the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'the CIT(A)'] for the Assessment Year 2019-20, whereby the Ld. CIT(A) had partly allowed the appeal against the intimation/order, dated 18.03.2021, issued/passed by the Assistant Director of Income Tax, CPC under Section 143(1) of the Act.
2. The Appellant has raised following grounds of appeal:

- “ 1. *The Ld Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi (Hereinafter “CIT(A), NFAC”) erred in deciding the appeal without providing hearing through video conference in spite of the fact that the same has been specifically sought by the appellant.*
2. *The Ld CIT(A), NFAC erred in presuming that prior intimation have been issued in respect of adjustment made by the Assessing Officer CPC without appreciating the fact that the appellant specifically claimed that no such intimation was issued and without verifying the same from departmental database which is very much available to him on click of a button.*
3. *The Ld CIT(A), NFAC erred in holding that taxing income of the appellant @ 30% instead of 25% is covered u/s 143(1) without appreciating the fact of the case and law applicable thereto.*
4. *The Ld. CIT(A), NFAC erred in holding that while calculating “turnover” following items will be included:*

<i>Particulars</i>	<i>Amount in Rs.</i>
<i>Interest Income on bank deposits</i>	<i>2.86 Cr.</i>
<i>Profit on sale of fixed assets</i>	<i>0.17Cr.</i>
<i>Provision for diminution in investments write back</i>	<i>1.40 Cr.</i>
<i>Provision for doubtful debts write back</i>	<i>4.09 Cr.</i>
	<i>8.53 Cr.</i>

The reasoning given for such inclusion in “turnover” is without any basis and against the established principles of law.

5. *The appellant prays that adjustment made in the intimation u/s 143(1) and confirmed by the Ld. CIT(A), NFAC may be directed to be deleted and income tax rate to be applied @ 25% to the income of the assessee for assessment year 2019-20 as “turnover” in financial year 2016-17 was less than Rs. 250 Crores.”*
3. The facts of the case, in brief, are that Appellant, a domestic company filed its return of income for the Assessment Year 2019-20 on 30.11.2019 offering to tax its income at the rate of 25% being the rate of income tax applicable to a domestic company having total turnover in the previous year 2016-17 not

exceeding INR 250 Crores. The return filed by the Appellant was processed under Section 143(1) of the Act. In the intimation, dated 18.03.2021, issued to the Appellant the tax liability of the Appellant was computed at the rate of 30% being the rate applicable to a domestic company having total turnover in the previous year 2016-17 exceeding INR 250 Crores.

4. Being aggrieved, the Appellant carried the issue in appeal before CIT(A). However, the CIT(A) decline to grant relief. Therefore, the Appellant is before us in appeal on this issue.
5. The Ld. Authorised Representative for the Appellant appearing before us submitted that the income tax rate of 25% is applicable in the case of the Appellant since in the previous year 2016-17 the total turnover of the Appellant did not exceed the threshold limit of INR 250 Crores specified in Finance Act, 2018. Elaborating on this, he submitted that while computing the total turnover for the previous year 2016-17 Other Income of INR 8.53 Crores has been added to revenue from operations amounting to INR 243.33 Crores to arrive at total turnover of INR 251.86 Crores. The Other Income of INR 8.53 Crores included Provision for Doubtful Debts Write Back amounting to INR 4.09 Crores which cannot formed part of total turnover in view of the judgment of Hon'ble Supreme Court in the case of CIT-VII, New Delhi vs. Punjab Stainless Steel Industries : 364 ITR 144 (SC). Further, the information relating to turnover for the previous year 2016-17 was not available on record and therefore, no adjustment could have been made under Section 143(1) of the Act in this regard.
6. Per contra, the Ld. Departmental Representative relied upon

paragraph 5.4 of the order passed by CIT(A) and submitted that for the purpose of fixing the rate of tax applicable to domestic company for the Assessment Year 2019-2020, the expression used by the Finance Act, 2018 is 'Total Turnover'. The use of word 'total' before the word 'turnover' cannot be ignored. The Finance Act, 2018 clearly provided that in case of a domestic company other than a company whose total turnover in the previous year 2016-17 does not exceed INR 250 Crores, the rate of income tax applicable would be 30%. In the case of the Appellant, the total turnover for the previous year 2016-17 stood at INR 251.86 Crores and therefore, the rate of 30% has been applied.

7. We have heard the rival submissions and perused the material on record. It is admitted position that the total turnover of INR 251.86 Crores for the previous year 2016-17 computed by the authorities below included 'Provisions for Doubtful Debts Write Back' of INR 4.09 Crores. The Hon'ble Supreme Court has, in the case of Punjab Stainless Steel Industries (supra) while examining the meaning of turnover as occurring the Section 80HHC of the Act, held as under:

"16. We had heard the learned counsel appearing for both the sides and also considered the relevant record and the judgments referred to.

17. To ascertain whether the turnover would also include sale proceeds from scrap, one has to know the meaning of the term 'turnover'. The term 'turnover' has neither been defined in the Act nor has been explained by any of the CBDT circulars.

18. In the aforesaid circumstances, one has to look at the meaning of the term 'turnover' in ordinary accounting or commercial parlance.

19. Normally, the term 'turnover' would show the sale effected by a business unit. It may happen that in the course of the business, in addition to the normal sales, the business unit may also sell some other things. For example, an assessee who is

manufacturing and selling stainless steel utensils, in addition to steel utensils, the assessee might also sell some other things like an old air conditioner or old furniture or something which has outlived its utility. When such things are disposed of, the question would be whether the sale proceeds of such things would be included in the 'turnover'. Similarly in the process of manufacturing utensils, there would be some scrap of stainless steel material, which cannot be used for manufacturing utensils. Such small pieces of stainless steel would be sold as scrap. Here also, the question is whether sale proceeds of such scrap can be included in the term 'sales' when it is to be reflected in the Profit and Loss Account.

20. In ordinary accounting parlance, as approved by all accountants and auditors, the term 'sales', when reflected in the Profit and Loss Account, would indicate sale proceeds from sale of the articles or things in which the business unit is dealing. When some other things like old furniture or a capital asset, in which the business unit is not dealing are sold, the sale proceeds therefrom would not be included in 'sales' but it would be shown separately.

21. In simple words, the word "turnover" would mean only the amount of sale proceeds received in respect of the goods in which an assessee is dealing in. For example- If a manufacturer and seller of air-conditioners is asked to declare his 'turnover', the answer given by him would show the sale proceeds of air-conditioners during a particular accounting year. He would not include the amount received, if any, from the sale of scrap of metal pieces or sale proceeds of old or useless things sold during that accounting year. This clearly denotes that ordinarily a businessman by word "turnover" would mean the sale proceeds of the goods (the things in which he is dealing) sold by him.

22. So far as the scrap is concerned, the sale proceeds from the scrap may either be shown separately in the Profit and Loss Account or may be deducted from the amount spent by the manufacturing unit on the raw material, which is steel in the case of the respondent-assessee, as the respondent-assessee is using stainless steel as raw material, from which utensils are manufactured. The raw material, which is not capable of being used for manufacturing utensils will have to be either sold as scrap or might have to be re-cycled in the form of sheets of stainless steel, if the manufacturing unit is also having its re-rolling plant. If it is not having such a plant, the manufacturer would dispose of the scrap of steel to someone who would re-cycle the said scrap into steel so that the said steel can be re-used.

23. When such scrap is sold, in our opinion, the sale proceeds of the scrap cannot be included in the term 'turnover' for the reason

that the respondent-unit is engaged primarily in the manufacturing and selling of steel utensils and not scrap of steel. Therefore, the proceeds of such scrap would not be included in 'sales' in the Profit and Loss Account of the respondent-assessee.

24. The situation would be different in the case of the buyer, who purchases scrap from the respondent-assessee and sells it to someone else. The sale proceeds for such a buyer would be treated as "turnover" for a simple reason that the buyer of the scrap is a person who is primarily dealing in scrap. In the case on hand, as the respondent-assessee is not primarily dealing in scrap but is a manufacturer of stainless steel utensils, only sale proceeds from sale of utensils would be treated as his "turnover".

25. So as to be more accurate about the word "turnover", one can either refer to dictionaries or to materials which are published by bodies of Accountants. The Institute of Chartered Accountants of India (hereinafter referred to as the 'ICAI') has published some material under the head "Guidance Note on Tax Audit Under Section 44AB of the Income Tax Act". The said material has been published so as to guide the members of the ICAI. In our opinion, when a recognized body of Accountants, after due deliberation and consideration publishes certain material for its members, one can rely upon the same. Para 5 of the said Note deals with "Sales", "turnover" and "gross receipts". Paras 5.2 and 5.3 of the said Note are reproduced hereinbelow, which pertain to the term "turnover".

'5.2 In the "Guidance Note on Terms Used in Financial Statements" published by the ICAI, the expression "Sales Turnover" (Item 15.01) has been defined as under:-

"The aggregate amount for which sales are effected or services rendered by an enterprise. The term 'gross turnover' and 'net turnover' (or 'gross sales' and 'net sales') are sometimes used to distinguish the sales aggregate before and after deduction of returns and trade discounts".

5.3 The Guide to Company Audit issued by the ICAI in the year 1980, while discussing "sales", stated as follows:

"Total turnover, that is, the aggregate amount for which sales are effected by the company, giving the amount of sales in respect of each class of goods dealt with by the company and indicating the quantities of such sales for each class separately. Note (i) The term 'turnover' would mean the total sales after deducting therefrom goods returned, price adjustments, trade discount and cancellation of bills for the period of audit, if any. Adjustments which do not relate to turnover should not be made

e.g. writing off bad debts, royalty etc. Where excise duty is included in turnover, the corresponding amount should be distinctly shown as a debit item in the profit and loss account.' (Emphasis supplied)

The aforestated meaning given by the ICAI clearly denotes that in normal accounting parlance the word "turnover" would mean "total sales" as explained hereinabove. The said sales would definitely not include the scrap material which is either to be deducted from the cost of raw material or is to be shown separately under a different head. We do not see any reason for not accepting the meaning of the term "turnover" given by a body of Accountants, which is having a statutory recognition.

26. If all accountants, auditors, businessmen, manufacturers etc. are normally interpreting the term 'turnover' as sale proceeds of the commodity in which the business unit is dealing, we see no reason to take a different view than the view normally taken by the persons who are concerned with the said term." (Emphasis Supplied)

8. On perusal of above, it can be seen that the Hon'ble Supreme Court, has after taking into consideration the guidance notes issued by Institute of Chartered Accountants of India, concluded that in normal accounting parlance 'turnover' would mean total sale proceeds of the goods in which the assessee is dealing. Therefore, the scrap sales would not form part of turnover unless an assessee is dealing in scrap. The turnover would be adjusted for goods returned, price adjustments, trade discount and cancellation of bills. However, adjustments which do not relate to turnover should not be made e.g. writing off bad debts, royalty etc.
9. In view of the above judgment of the Hon'ble Supreme Court in the case of Punjab Stainless Steel Industries (supra), we hold that 'Provisions for Doubtful Debts Write Back' amounting to INR 4.09 Crores cannot be included in total turnover for the previous year 2016-17. On exclusion of the 'Provisions for Doubtful Debts Write Back' the total turnover of the Appellant for the previous

year 2016-17 falls below of INR 250 Crores. In view of the aforesaid, we hold that the Appellant was correct in offering its income to tax at the rate of 25% in the return of income. Accordingly, the additional tax demand raised on the Appellant on account of computing income tax liability by adopting rate of 30% (instead of income tax rate of 25%) is deleted. Ground No. 3 to 5 raised by the Appellant are allowed while Ground No. 1 and 2 raised by the Appellant are disposed off as being infructuous.

In the result, the present appeal is allowed.

Order pronounced on 05.01.2023.

Sd/-
(Om Prakash Kant)
Accountant Member

Sd/-
(Rahul Chaudhary)
Judicial Member

मुंबई Mumbai; दिनांक Dated : 05.01.2023
Alindra, PS

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,

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