

**आयकर अपीलीय अधिकरण “बी” न्यायपीठ चेन्नई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“B” BENCH, CHENNAI**

**माननीय श्री महावीर सिंह, उपाध्यक्ष एवं**  
**माननीय श्री मनोज कुमार अग्रवाल, लेखक सदस्य के समक्ष।**  
**BEFORE HON'BLE SHRI MAHAVIR SINGH, VP AND**  
**HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM**

**आयकर अपील सं. ITA No.2081/Chny/2018**  
**(निर्धारण वर्ष / Assessment Year: 2014-15)**

<b>M/s. Success Investments Ltd.</b> [Presently known as <b>M/s.EKA Enterprises Limited</b> ] No.6A, New Colony 10 <sup>th</sup> Street, Adambakkam, Chennai-600 088.	<b>बनाम</b> / Vs.	<b>DCIT</b> Corporate Circle-6(2), Chennai.
स्थायी लेखासं./जीआइआरसं./PAN/GIR No. <b>AAVCS-7945-J</b>		
(पीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

अपीलार्थी की ओर से/ <b>Appellant by</b>	:	Shri R.Vijayaraghavan (Advocate)-Ld.AR
प्रत्यर्थी की ओर से/ <b>Respondent by</b>	:	Shri D.Hema Bhupal (JCIT)- Ld. DR

सुनवाई की तारीख/ <b>Date of Hearing</b>	:	21-06-2023
घोषणा की तारीख / <b>Date of Pronouncement</b>	:	27-06-2023

**आदेश / ORDER**

**Manoj Kumar Aggarwal (Accountant Member)**

1. Aforesaid appeal by assessee for Assessment Year (AY) 2014-15 arises out of the order of learned Commissioner of Income Tax (Appeals)-15, Chennai [CIT(A)] dated 27-03-2018 in the matter of an assessment framed by Ld. Assessing Officer [AO] u/s.143(3) of the Act on 05-12-2016. The grounds taken by the assessee read as under: -

1) The order of The Commissioner of Income tax (Appeals) is contrary to law, facts and circumstances of the case.

- 2) The Commissioner of Income tax (Appeals) erred in disallowing the amount of investment write off which was claimed as business loss.
- 3) The Commissioner of Income tax (Appeals) ought to have appreciated that the profit on sale of investments were being assessed as business income and hence, loss would constitute business loss.
- 4) The Commissioner of Income tax (Appeals) ought to have appreciated both investments as well as creditors were non-existent and were taken into account only for continuing from the last account made in 1998. Hence, write off of investment and reversal of creditors constitute notional entries which would not affect the real income of the Appellant, hence addition on this account requires to be deleted.”

As is evident, the assessee is aggrieved by disallowance of investments written-off during the year for Rs.165.81 Lacs, advances / debtors written-off for Rs.98.08 Lacs and cash / bank balances written-off for Rs.2.95 Lacs.

2. The Ld. AR advanced arguments and submitted that it was a case of restatement of financial statements and no real income accrued to the assessee. The Ld. Sr. DR, on the other hand, supported the assessment framed by Ld. AO. Having heard rival submissions and after perusal of case records, our adjudication would be as under.

### **Proceedings before lower authorities**

3.1 The erstwhile assessee M/s Success Investments Ltd. being resident corporate assessee was stated to be engaged as a non-banking finance company. During the course of assessment proceedings, it transpired that the assessee did not carry out any business during the year but it incurred business loss of Rs.65.65 Lacs and claimed carry forward of the same. The Ld. AO proceeded to disallow the same.

3.2 It was noted that the assessee ceased to function after its books of accounts, files, records and other documents were taken in possession by official liquidator and other investigating agencies in connection with the winding up proceedings of M/s MCC Finance Limited (now known as

M/s Mercantile Ventures Limited). During those proceedings, the official liquidator had sold the shares belonging to assessee during the period 2002 to 2004 and the amounts were appropriated by the Official Liquidator but no details were made available to the assessee. Therefore, it was not possible to update the accounts of the company. The balances as on 31.03.1999 were carry forward from year-to-year till 2013. After revival of the company, a review of the investments, current assets and current liabilities was made and necessary accounting entries were affected in the books of accounts during financial year 2013-14 in order to reflect the correct balances. Regarding investments written-off, it was submitted that as an investment company, the shares in various companies were purchased with the object of trading. Since the investment were sold by the Official Liquidator and the sale proceeds were also appropriated by the Official Liquidator, the investments which relate to the investment activities and which are non-existent were written-off and are therefore, to be treated as business expenses / loss only. Regarding write-off of debtors, bank balances and write-back of creditors, it was further submitted that as per the order of Madras High Court, the balances available in the bank accounts were also transferred to the official Liquidator's account of MCC Finance Ltd some time in 2004. However, no details were made available. Therefore, the bank balances as appearing in the books were non-existent and accordingly, written-off. After review, various outstanding debtors and creditors since 1999 were also written-off / written-back in order to reflect the true state of affairs. Though no business activity was carried on during the financial year, expenses had to be incurred by the assessee to comply with the

requirements of the Companies Act. The company had engaged the services of practicing Company Secretary for the work relating to revival of the Company, reconstitution of Board, shifting of registered office and holding discussions with the officials in the Registrar of Companies, Bangalore. For this purpose, the company had incurred professional charges. The advertisement expenses were incurred in connection with shifting of the registered office of the company for which advertisement was released in the newspaper. Similarly, other expenses were incurred in the course of business only.

3.3 However, Ld. AO held that investments written-off were capital in nature. Similarly, write-off of debtors, creditors and bank balances could not be allowed as revenue expenditure. Finally, aggregate expenditure of Rs.266.85 Lacs was disallowed and added to assessee's income

3.4 The Ld. CIT(A) merely upheld the action of Ld. AO against which the assessee is in further appeal before us.

### **Our findings and Adjudication**

4. From the fact, it emerges that the assessee ceased to function and its books of accounts, files, records and other documents were taken in possession by official liquidator and other investigating agencies. During those proceedings, the official liquidator had sold the investments held by the assessee and the amounts were appropriated by the Official Liquidator but no details were made available to the assessee. Consequently, it was not possible to update the accounts of the company. The balances as on 31.03.1999 were carried forward from year-to-year till 2013. After revival of the company, a review of the investments, current assets and current liabilities was made and

necessary accounting entries were affected in the books of accounts in this year in order to reflect the correct balances. It could thus be seen that it was case of restatement of assets and liabilities at correct value in the absence of information forthcoming from official liquidator. No real income accrued to the assessee. Upon perusal of financial statements, it could be seen that the assessee has not earned any income from business operations but the credit to Profit & Loss Account merely constitutes similar write-backs etc. Therefore, the disallowance as made by lower authorities could not be upheld. We order so. The Ld. AO is directed to re-compute the income / loss of the assessee.

5. The appeal stand allowed in terms of our above order.

*Order pronounced on 27<sup>th</sup> June, 2023*

**Sd/-**  
**(MAHAVIR SINGH)**  
उपाध्यक्ष / **VICE PRESIDENT**

**Sd/-**  
**(MANOJ KUMAR AGGARWAL)**  
लेखा सदस्य / **ACCOUNTANT MEMBER**

चेन्नई Chennai; दिनांक Dated :27-06-2023  
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**आदेश की प्रतिलिपि □ ग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF