

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'E', NEW DELHI**

**BEFORE SH. N. K. BILLAIYA, ACCOUNTANT MEMBER
AND
MS. ASTHA CHANDRA, JUDICIAL MEMBER**

ITA No.6444/Del/2019
Assessment Year: 2016-17

The Oriental Insurance Co. Ltd., A-25/27, Asaf Ali Road, New Delhi-110002 PAN No.AAACT0627R	Vs	ACIT Circle 1, LTU New Delhi
(APPELLANT)		(RESPONDENT)

Appellant by	Sh. Tarandeep Singh, Advocate
Respondent by	Sh. Sujit Kumar, CIT DR

Date of hearing:	31/07/2023
Date of Pronouncement:	31/07/2023

ORDER

PER N. K. BILLAIYA, AM:

This appeal by the assessee is preferred against the order of the CIT(A)-22, New Delhi dated 30.05.2019 pertaining to A.Y. 2016-17.

2. The grievance of the assessee read as under :

1. *That on the facts and in law the CIT(A) erred in upholding an addition to total income of Rs. 5,94,12,31,837/- on account of Profit on Sale/Redemption of Investments.*

1.1 *That on facts and in law the CIT(A) erred in upholding the action of AO in*

denying benefit of exemption u/s 10(38) of the Income Tax Act.

2. *Without prejudice, on facts and in law the AO / CIT(A) have erred in denying benefit of concessional rate of tax as per section 111A and / or section 112 of the Income Tax Act.*

3. *That on facts and in law the CIT(A) has erred in upholding a disallowance of Rs 18,92,695/- out of the total depreciation allowance of Rs 65,26,535/- claimed by the appellant under section 32 of the Act.*

3.1 *That on facts and in law the AO / CIT(A) erred in making / upholding the above disallowance without considering the fact that all necessary details relevant for claim of depreciation allowance for AY 2016-17 were on record.*

4. *That on facts and in law the CIT(A) erred in upholding a disallowance of Rs.92,70,000/-being Provision made for Standard Assets.*

5. *That on facts and in law the CIT(A) has erred in upholding following adjustments made by AO while computing taxable "Book Profits" as per provisions of section 115JB of the Act:*

(a) Addition of Rs.92,70,000/- on account of Provisions for Standard Assets

(b) Disallowance of Depreciation of Rs.18,92,695/-

6. *That on facts and in law the order of assessment u/s. 143 (3) passed by the Assessing Officer [hereinafter referred to as the "AO"] is bad in law and void ab-initio.*

7. *That on facts and in law the order passed by Commissioner of Income-Tax {hereinafter referred to as the "CIT(A)} to the extent it upholds the assessment order in part is bad in law and void ab -initio.*

3. At the very outset the Counsel for the assessee stated that all the issues have been considered and decided by this Tribunal in assessee's own case in earlier assessment years. The Counsel supplied the copy of the judgment of the Tribunal. Though the DR strongly relied upon the orders of the authorities below but could not bring any distinguishing decision in favour of the revenue.

4. We have carefully perused the orders of the authorities below. We have carefully considered the decisions of the coordinate Bench in assessee's own case for earlier assessment years. We find force in the contention of the Counsel. All the issues before us have been considered and decided by this Tribunal.

5. Issues raised vide ground No.1 with all its sub grounds was considered by this Tribunal in ITA No.1952/Del/2018 and 1750/Del/2018 for A.Y.2013-14. A similar issue was considered at para-6 of its order and at para 6.1 the coordinate Bench followed the order of this Tribunal for A.Y.2011-12 and concluded as under :-

“Accordingly, the issue is decided in favour of the assessee and Ld. AO is directed to verify about the status of STT payment and accordingly allow the exemption u/s. 10 (38) of the Act.”

6. On finding parity of facts we order accordingly.

7. The ground No.2 is consequential and without prejudice to ground No.1 and needs no separate adjudication.

8. Issue raised vide ground No.3 have been considered by the coordinate Bench at para 6.2 of its order for A.Y.2013-14 (supra) and at para-6.3 followed the order for A.Y.2011-12 and concluded as under :-

“Ld. DR has not pointed and distinguishing the facts so the ground is decided in favour of the assessee and issue restored to the file of Ld. AO to decide afresh as directed for A.Y.2010-11 to 2011-12.”

9. Respectfully following the same we direct accordingly.

10. Issue raised vide ground No.4 were considered by the coordinate Bench at para – 6.4 of its order and at para – 6.5 following the order for A.Y.2011-12 held :-

“ The issue No.14 is decided in favour of the assessee”

11. Respectfully following the decision of the coordinate bench this ground is decided in favour of the assessee.

12. Ground No.5 relates to the adjustments made by the AO while computing taxable book profits. The AO is directed to re-compute the book profit u/s. 115JB of the Act giving reasons for making adjustments and after affording a reasonable opportunity of being heard to the assessee.

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

14. Decision announced in the open court on 31.07.2023.

Sd/-

[ASTHA CHANDRA]
JUDICIAL MEMBER

Dated: .07.2023

Neha

Copy forwarded to:

1. Appellant
2. Respondent
3. CITi
4. CIT(A)
5. DR

Sd/-

[N.K. BILLAIYA]
ACCOUNTANT MEMBER

Asst. Registrar
ITAT, New Delhi