

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH, CHENNAI

श्री महावीर सिंह, उपाध्यक्ष एवं श्री मंजुनाथ. जी, लेखा सदस्य के समक्ष

**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI MANJUNATHA.G, ACCOUNTANT MEMBER**

आयकर अपील सं./**ITA No.: 283/CHNY/2023**

निर्धारण वर्ष/Assessment Year: 2018-19

The ACIT,
Central Circle 1(2),
Chennai – 34.

Twenty First Century
vs. **Management Services Ltd.,**
Old No.28A, New No.67,
G-3, Eldams Road,
Alwarpet,
Chennai – 600 018.

(अपीलार्थी/Appellant)

PAN: AACT 2397L
(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri D. Hema Bhupal, JCIT

प्रत्यर्थी की ओर से/Respondent by

: Shri R. Viswanathan, FCA

सुनवाई की तारीख/Date of Hearing

: 08.08.2023

घोषणा की तारीख/Date of Pronouncement

: 11.08.2023

आदेश /ORDER

PER MAHAVIR SINGH, VICE PRESIDENT:

This appeal by the Revenue is arising out of the order of the Commissioner of Income Tax (Appeals)-18, Chennai ITA No.33/CIT(A)-18/2020-21 dated 13.12.2022. The assessment was framed by the DCIT, Central Circle 1(2), Chennai for the assessment

year 2018-19 u/s.154 of the Income Tax Act, 1961 (hereinafter the 'Act'), vide order of dated 13.12.2022.

2. The only issue in this appeal of Revenue is as regards to the order of CIT(A) deleting the addition made by the AO of comprehensive income while computing book profit u/s.115JB of the Act and adding an amount of Rs.4,67,02,000/-. For this, Revenue has raised following ground No.2:-

2. The Ld. CIT(A) erred in deleting the addition made towards other comprehensive income amounting to Rs. 4,67,02,000/-, with the book profit without appreciating the fact that the starting point of income for the purpose of book profit is the profit before comprehensive income and therefore the book profit needs to be increased by the amount credited to other comprehensive income, as per the provisions of section 115JB(2A)(a) of the IT Act.

2.1 The Ld. CIT(A) erred in deleting the addition made towards other comprehensive income with the book profit, without giving a clear finding as to why the comprehensive income should not be added with the book profit within the meaning of the provisions of section 115JB(2A) of the IT Act and the CBDT circular 24/2017 dated 25.7.2017.

3. Brief facts are that the assessee is a public limited company engaged in capital market operations by investment in derivatives and shares and trading in shares and securities. The assessee for the relevant assessment year 2018-19 filed its return of income on 08.10.2018 and return was processed u/s.143(1) of the Act on 20.03.2020 by making adjustment in the book profit for an amount

of Rs.4,67,02,000/-. The CIT(A) in his order has reproduced the relevant adjustment made by the CPC u/s.143(1) of the Act as under:-

a. The amount entered in Schedule SI is inconsistent with the corresponding amounts entered in Schedule CG/Schedule OS and hence, the variance was Rs.88,66,762

b. The claim of set-off of current year loss shown in Part B- TI is not consistent with the loss computed in the schedules of the corresponding heads of Income or the priority of set-off of the current year loss is not consistent with the provisions of the Act and hence the variance was Rs.83,50,235.

c. In Schedule MAT, there is an inconsistency in the computation of Book Profit from the amounts mentioned in Part A – P & L account and hence, the variance was Rs.4,63,95,275.

The assessee moved a rectification application with the CPC, Bangalore dated 26.06.2020 and the CPC, Bangalore rejected the rectification and passed order u/s.154 of the Act on 15.08.2020 retaining the addition made by CPC u/s.143(1) of the Act being comprehensive income of Rs.4,67,02,000/-. Aggrieved, assessee preferred appeal before CIT(A). The CIT(A) after considering the submissions of the assessee and Explanation 1 to section 115JB(2) of the Act and also CBDT Circular No.24/2017 dated 25.07.2017 noted that as per proviso, the book profit of the previous year in which the asset or investment referred to in the first proviso is retired, disposed, realised or otherwise transferred shall be

increased or decreased by the amount or the aggregate of the amounts referred to in the first proviso for the previous year or any of the preceding previous years and relatable to such asset or investment. The CIT(A) also considered the computing book profits for Indian Accounting Standards (Ind AS) compliant companies and what will be the treatment to comprehensive income. The CIT(A) deleted the adjustment made to book profit because comprehensive income which was in line item below the profit before tax because it is notional income and not real income. Aggrieved, Revenue came in appeal before the Tribunal.

4. Before us, the Id.Senior DR relied on the 143(1) processing and also rectification order of the AO passed u/s.154 of the Act. On the other hand, the Id.counsel for the assessee relied on the order of the CIT(A).

5. We have heard rival contentions and gone through facts and circumstances of the case. We noted from the computation of income filed before us that the variance in deemed total income to the book profit is below the line of profit before tax and this, as explained by the Id.counsel for the assessee before us now that the has revalued the investment and there is an increase in value of

investments which is reported in the accounts only and this is purely notional or uncertain income because assessee has not earned any income on this account. We noted that the assessee also relied on the CBDT Circular No.24/2017 dated 25.07.2017 vide F.No.133/23/2015-TPL and subsequent issue of FAQ titled clarifications on computation of book profit for the purpose of levy of Minimum Alternate Tax (MAT) u/s.115JB of the Act for Ind AS compliant companies. Wherein revaluation surplus of assets is to be computed in accordance with Indian Accounting Standards 16 and Indian Accounting Standards 38 and gains or loss in equity instruments designated at fair value through other comprehensive income in accordance with the Indian Accounting Standards 109 but this will not be included while computing book profit u/s.115JB of the Act because proviso clearly bar from applying clause 'a' or 'b' in regard to comprehensive income. The relevant proviso provides as under:-

“Provided that nothing contained in clause (a) or clause (b) shall apply to the amount credited or debited to other comprehensive income under the head "Items that will not be re-classified to profit or loss" in respect of

- i. revaluation surplus for assets in accordance with the Indian Accounting Standards 16 and Indian Accounting Standards 38; or*
- ii. gains or losses from investments in equity instruments designated at fair value through other comprehensive income in accordance with the Indian Accounting Standards 109:”*

From the above, it is clear that the comprehensive income on account of revaluation of investments and by virtue of which the increase in value of investments taken by assessee as notional income is uncertain income and which cannot be made subject matter of book profit u/s.115JB of the Act. We find that the CIT(A) has rightly deleted the addition and hence, we confirm the order of CIT(A). The appeal of the Revenue is dismissed.

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

Order pronounced in the open court on 11th August, 2023 at Chennai.

Sd/-

(मंजुनाथ. जी)

(MANJUNATHA.G)

लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-

(महावीर सिंह)

(MAHAVIR SINGH)

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 11th August, 2023

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant

2. प्रत्यर्थी/Respondent

3. आयकरआयुक्त /CIT

4. विभागीय प्रतिनिधि/DR

5. गार्ड फाईल/GF.