

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

**BEFORE SH. N. K. BILLAIYA, ACCOUNTANT MEMBER
AND
SH. YOGESH KUMAR US, JUDICIAL MEMBER**

ITA No.6075/Del/2013
Assessment Year: 2007-08

Scicom Technologies Pvt. Ltd. (Not known as Wipro Energy IT Services India P. Ltd.)32-33, M-2, 1st Floor, Kaushal Bazar, Nehru Place, New Delhi PAN No.AAACI6192A	Vs	DCIT Circle – 7 (1) New Delhi
(APPELLANT)		(RESPONDENT)

Appellant by	Sh. Manuj Sabharwal, Advocate Sh. Anshul Kumar, CA Ms. Shalini, Advocate
Respondent by	Sh. Anuj Garg, Sr DR

Date of hearing:	09/08/2023
Date of Pronouncement:	11/08/2023

ORDER

PER N. K. BILLAIYA, AM:

This appeal by the assessee is preferred against the order of the CIT(A)-10, New Delhi dated 16.08.2013 pertaining to A.Y. 2007-08.

2. The grievance of the assessee read as under :-

1. *That on the facts and the circumstances of the case and in law, the order passed by the CIT(A) is bad in law.*

2. *That on the facts and in the circumstances of the case, the CIT(A) erred in holding that the notice u/s. 148 of the Act by the ld. AO and consequential assessment proceedings are valid.*

3. *That on the facts and in circumstances of the case and in law, the Ld. CIT(A) erred in holding that advance amounting to Rs.59,46,869/- written off by the assessee is not allowable as a deduction from business income.*

3. Representatives of both the sides were heard at length. Case records carefully perused and the relevant documentary evidences brought on record duly considered alongwith judicial decisions relied upon.

4. Briefly stated the facts of the case are that the original assessment was completed u/s. 143 (3) of the Act vide order dated 23.11.2010. The completed assessment was reopened by citing the following reasons :-

OFFICE OF THE
ASSISTANT COMMISSIONER OF INCOME-TAX
CIRCLE 7(1), NEW DELHI

Reasons for reopening of Assessment

In the case of :
M/s SCICOM TECHNOLOGIES PVT LTD
PAN: AAAC56192A
A.Y. 2007-08

The assessment u/s 143(3) was completed determining income of Rs.3,92,00,450/-.

Perusal of record reveals that that the assessee had reduced an amount of Rs.59,46,869/- on account of doubtful advances written off from the net income while calculating taxable income in the computation sheet. But the same amount was not credited in the P&L A/c. As the assessee had not credited the same amount in P&L account hence it should also not have been reduced from the net income. The mistake resulted in underassessment of income of Rs.59,46,869/-.

I have therefore, reason to believe that an amount of Rs.59,46,869/- represents income of the assessee for A.Y. 2007-08 which has escaped assessment within the meaning of section 147 of the Income Tax Act, 1961. Therefore, a notice u/s 148 of the Income Tax Act 1961, is required to be issued and served upon the assessee company to assess the income escaped as stated hereinabove.

Dated: 30.03.2012

(PANKAJ KUMAR SAXENA)
Asstt Commissioner of Income-tax
Cir-7(1), New Delhi

5. We have given a thoughtful consideration to the aforementioned reasons for reopening the assessment. We find that in the reasons itself the AO has mentioned “perusal of record reveals” which means that no new tangible material was brought on record and the AO has used what was already there in his records. This is against the ratio laid down by the Hon’ble Supreme Court in the case of Kelvinator of India Limited 320 ITR 561. As no new tangible material has been brought on record the reopening can only be just a change of opinion which is not permissible for reopening the completed assessment.

6. The assumption of jurisdiction is held to be bad in law and the resulted assessment order deserves to be quashed.

7. Since we have quashed the assessment order we do not find it necessary to dwell into the merits of the case.

8. In the result, the appeal of the assessee is allowed.

Sd/-
[YOGESH KUMAR US]
JUDICIAL MEMBER

Sd/-
[N.K. BILLAIYA]
ACCOUNTANT MEMBER

Dated:11 .08.2023

Neha, Sr. Private Secretary

Copy forwarded to:

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

Asst. Registrar
ITAT, New Delhi