

| आयकर अपीलिय अधिकरण न्यायपीठ, कोलकाता |
IN THE INCOME TAX APPELLATE TRIBUNAL
"B" BENCH, KOLKATA

BEFORE SHRI SANJAY GARG, HON'BLE JUDICIAL MEMBER
&
DR. MANISH BORAD, HON'BLE ACCOUNTANT MEMBER

I.T.A. No. 671/Kol/2023
Assessment Year: 2021-22

M/s. Srinathji Tradecom Private Limited C/o Rajesh Mohan & Associates Unit No. 18, 5 th Floor Bagati House 34, Ganesh Chandra Avenue Kolkata - 700013 [PAN: AALCS8576R]	Vs	Asst. Director of Income Tax, CPC, Bengaluru/ITO Ward, 5(1), Kolkata
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अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)
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Assessee by :	Shri Sunil Surana, A/R
Revenue by :	Shri P.P. Barman, Addl. CIT Sr. D/R

सुनवाई की तारीख/Date of Hearing : 06/09/2023
घोषणा की तारीख /Date of Pronouncement: 22/09/2023

आदेश/ORDER

PER DR. MANISH BORAD, ACCOUNTANT MEMBER :

The captioned appeal filed by the assessee is directed against the order of the National Faceless Appeal Centre (hereinafter 'the Id. CIT(A)') passed u/s 250 of the Income Tax Act, 1961 (hereinafter 'the Act'), dt. 08/06/2023, for Assessment Year 2021-22.

2. The effective ground of appeal is Ground No. 2 wherein the assessee has challenged the finding of the Id. CIT(A) confirming the action of the Id. Assessing Officer of not deducting the income exempted u/s 10(34A) of the Act while computing book profit u/s 115JB of the Act in spite of the fact that exempted income was duly disclosed in Schedule EI of the ITR.

3. At the outset, the Id. Counsel for the assessee submitted that the assessee has earned profit from buy back of equity shares at Rs.1,10,89,220/- and the said sum is exempt u/s 10(34A) of the Act and for the purpose of computing the book profit this exempt income needs to be reduced which both the lower authorities have failed to do so.

4. On the other hand, the Id. D/R submitted that the assessee did not appear before the Id. CIT(A) to explain the said issue and also to file necessary evidence to prove that the alleged sum is profit on by back.

5. We have heard rival contentions and perused the material placed before us. We notice that the assessee is a private limited company and filed its return of income on 28/02/2022 for Assessment Year 2021-22. The return was filed after the due date and, therefore, the option taken by the assessee u/s 115BBA of the Act was not allowed. The assessee has not challenged the said action of the CPC. The only grievance is that in the income tax return assessee has disclosed exempt income u/s 10(34A) of the Act received on account of buy back of shares at Rs. 1,10,46,994/-. In the return processed u/s 143(1)(a) of the Act, the exempt income from buy back of equity shares has not been reduced from the book profit and tax has been calculated accordingly. By virtue of provisions provided u/s 115JB of the Act, for the purpose of computing book profit, the amount of income of any of provisions of Section 10 of the Act other than the provisions contained

in clause (38), thereto or Section 11 or 12 of the Act, apply and if any such amount is credited to the statement of profit and loss then such amount needs to be reduced from the profit shown in the audited financial statements.

6. Thus, we find that for the purpose of book profit u/s 115JB of the Act, the exempt income from buy-back of equity shares was required to be reduced. Such *prima-facie* adjustment of disallowing the genuine claim of assessee could not be made u/s 143(1)(a) of the Act when the assessee has specifically show the said income in the income tax return. Thus, considering the fact that the assessee has earned exempt income from buy back of equity shares and necessary supporting evidences in support of the earning of the said exempt income has been filed before us in the paper book, therefore, for the purpose of computing book profit u/s 115JB of the Act, the exempt income from buy-back of equity shares at Rs.1,10,89,220/- needs to be reduced. Accordingly the sole effective grounds raised by the assessee is allowed.

6. Other grounds raised being general in nature need no adjudication.

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

Order pronounced in the Court on 22nd September, 2023 at Kolkata.

Sd/-

(SANJAY GARG)
JUDICIAL MEMBER

Kolkata, Dated 22/09/2023

SC S.P.

Sd/-

(DR. MANISH BORAD)
ACCOUNTANT MEMBER

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि , आयकर अपीलीय अधिकरण, कोलकाता/DR,ITAT, Kolkata,
6. गार्ड फाई/ Guard file.

आदेशानुसार/ BY ORDER,
TRUE COPY

Assistant Registrar
आयकर अपीलीय अधिकरण
ITAT, Kolkata