

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: A: NEW DELHI

BEFORE SHRI G.S PANNU, HON'BLE PRESIDENT
AND
SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER

ITA No.1317/Del/2020
Assessment Year: 2015-16

M/s Ametek Builtech India Versus Pvt. Ltd., 1114,Hemkunt Chamber, 89, Nehru Place, New Delhi 110019 PAN AAMCA 1333 M	vs.	The PCIT-1, C.R Building, I.P Estate, New Delhi
(Appellant)		(Respondent)

For Assessee :	None
Revenue For :	Shri Zafarul HaqueTanveer, CIT(DR)

Date of Hearing :	09.10.2023
Date of Pronouncement :	17.10.2023

ORDER

PER CHANDRA MOHAN GARG, J.M.

This appeal has been filed against the order of Id. PCIT-1, New Delhi dated 16.03.2020 for A.Y. 2015-16.

2. When the appeal was called for hearing neither the assessee nor any authorized representative appeared nor any adjournment application has been filed despite several notices. However, on perusal of the appeal records and impugned order, we find that the appeal can be disposed of ex-parte qua assessee after hearing the arguments of Id. Senior DR. Therefore we proceed to adjudicate the appeal ex-parte qua assessee.

3. The assessee has raised following grounds of appeal:-

- 1. That the order of the Ld. Principal Commissioner of Income-tax-1, Delhi, New Delhi is bad in law and on facts and needs to be cancelled.*
- 2. That without prejudice to the above, the Ld. Principal Commissioner of Income-tax-1, Delhi, New Delhi, erred in not appreciating the fact that the Appellant Company had*

hardly started the business and the loans and advances were from group companies through their bank accounts and duly accepted as genuine.

3. Appropriate direction may be issued not to proceed for the assessment on the directions in the order u/s 263 of the Act.

4. From the grounds and statement of facts we note that the assessee while challenging the revisionary order passed u/s. 263 of the I.T Act 1961 (for short the 'Act') of PCIT, New Delhi submitted that the Id. PCIT has erred in not appreciating the fact that during AY 2015-16 the assessee company had hardly started the business and the loans and advances from the group companies routed through banking channels was rightly accepted by the Assessing Officer as explained and genuine. From the written submissions dated 25.03.2019 submitted before the Id. PCIT, as has been reproduced in para 6 of impugned order, we note that the assessee contended the Assessing Officer has made an independent inquiry u/s. 133(6) of the Act which was duly complied by the respective lender/creditors company and the Assessing Officer also verified and examined the books of accounts of assessee and thereafter accepted the same. Therefore it was contended before Id. PCIT that after being satisfied from the explanation, documentary evidence and other details filed by the assessee and also considering the reply of lender/creditors company the Assessing Officer rightly found that the unsecured loans and advances are genuine transaction. After submitting said contentions the assessee before the Id. PCIT finally submitted that the assessment order cannot be alleged as erroneous and prejudicial to the interest of Revenue. However, not being agreed with the stand of assessee the Id. PCIT invoke the provision of section 263 of the Act and directed the Assessing Officer to make a fresh denovo assessment order in terms of the directions given in the said revisionary order u/s. 263 of the Act.

5. Supporting the order of the Id. PCIT the Id. CIT(DR) submitted that the Id. Revisionary Authority rightly held that the assessment order dated 30.11.2017 has been passed without making required enquiries and verification, which should have been made, while accepting unsecured loans and advances shown by the assessee in its financial accounts and balance sheet. The Id. PCIT also submitted that the assessment order clearly reveals that the Assessing Officer has accepted assessee's explanation

without making any inquiry of verification of fact therefore it was rightly alleged that the assessee order is erroneous and prejudicial to the interest of Revenue. The Id. CIT(DR) submitted that accordingly, as per mandate of explanation 2 to section 263 of the Act the Id. PCIT rightly held that the assessment order passed without proper verification and enquiries is not only erroneous but prejudicial to the interest of Revenue hence the assessment order dated 30.11.2017 was rightly set aside directing the Assessing Officer to reframe denovo assessment order for AY 2015-16 after proper verification of facts and allowing due opportunity of hearing to the assessee.

6. On careful consideration of above contentions of the assessee placed before Id. PCIT and in the grounds & statements of facts and submissions of Id. CIT(DR) we are of the consider view that during the year consideration the assessee company was engaged in the business of construction, development, sale and operation of all types townships, housing project, commercial premises and other related activities and the case was selected for scrutiny u/s. 143(3) of the Act. The Assessing Officer passed a cryptic order accepting the returned income as nil as per declaration of assessee. Subsequently, the Id. PCIT, on examination of assessment order in question as well as the assessment records containing the Financial statement of the assessee company, it has been noticed that total Long term borrowing had increased from Rs. 30,11,43,544/- as on 31.03.2014 to Rs. 72,20,76,372/- as on 31.03.2015 corresponding to increase of Rs. 42,09,32,828/-. Further, Long term loans & advances had also been found to be increased from Rs. 29,89,85,372/- as on 31.03.2014 to Rs. 42,09,50,178/- as on 31.03.2015 i.e. increased by Rs. 12,19,54,806/-. It has also been found that the assessee-company had taken loans and advance from M/s Supertech Township Project Ltd. and M/s Supertech Realtors Pvt. Ltd., claimed to be their sister concerns and assessed to tax separately. In the course of the assessment proceedings of the case, the AO of the case been found to have issued notices u/s 133(6) of the Income-tax Act, 1961 and the so-called had been found to have filed their replies in response to notice u/s 133(6) of the Income-tax Act, 1961.

7. On further examination of the same, the Id. PCIT also noted following factual position emerged from the financial statements and balance sheet of assessee:-

(i) M/s Supertech Realtors Pvt. Ltd. has filed its return of income declaring loss of Rs. 4,73,30,485/-, therefore, its creditworthiness remained doubtful.

(ii) From the Balance sheet of M/s Supertech Realtors Pvt. Ltd., it could not objectively verified that the assessee company has availed loan of Rs. 58,06,71,151/- as Long term loans & Advances because as per Note No. 11 of Balance sheet of M/s Supertech Realtors Pvt. Ltd. the same is only at Rs. 2,33,71,220/-.

(iii) On verification of the Corporation Bank A/c No. CBCA/01/200055 of M/s Supertech Realtors Pvt. Ltd. on 27.08.2014, it is noticed that Rs. 103 crores were credited and debited on the same day with the assessee company. The AO has failed to acknowledge the gravity of such huge transaction happening in a single day and has not called for further details in this regard. Thus, the AO has failed to analyze the Bank statement submitted in response to notice u/s 133(6).

(iv) On examining Ledger account of unsecured loan of M/s Supertech Realtors Pvt. Ltd. in the books of assessee company, it is noticed that details have been submitted for the period from 01.03.2015 to 31.03.2015 i.e. only for one month instead of full year. In absence of full Ledger account, the AO could not verify the sources/ creditworthiness and genuineness of this loan transaction of assessee company with M/s Supertech Realtors Pvt. Ltd.

(v) On verifying Balance sheet of M/s Supertech Township Project, it could not he objectively verified that the assessee company has availed loan of Rs. 14,14,05,221/-as Long term Loans & Advances, which as per Note No. 11 of Balance sheet of M/s Supertech Realtors Pvt. Ltd. is only at Rs. 2,33,71,220/-.

8. The Id. PCIT also noted that In the course of the assessment proceedings of the case, the AO chose to make perfunctory enquiries on the issues of the case for which it has been selected for the Limited Scrutiny and no enquiries whatsoever had been found to have been made in respect of the identity, creditworthiness and genuineness of the loans and advances as required u/s 68 of the Act. The AO should have made further investigations so as to establish that the identity of the party, its creditworthiness and genuineness of the Loan transactions should have been established. However, the AO without making such further investigations passed the assessment order u/s 143(3) of the Income-tax Act, 1961 on 30.11.2017 therein assessing the total income at Rs. NIL.

9. In view of above, factual position which was clearly discernable and noted by the Id. PCIT when we evaluate the action of the Assessing Officer along with assessment order then we clearly find that the Assessing Officer has passed a very brief and cryptic

order. However, in the body of the order he has mentioned that specific query were raised regarding two issues viz. (i) large increase of unsecured loan during the year and low income in compression to high amounts of loan, advances and investment in shares and noted that in response to notices AR of assessee attending proceedings and after taking on record necessary details, explanation and evidences returned income at Nil was accepted.

10. We are unable to see any endeavour exercise by the Assessing Officer regarding verification, examination and adjudication of both the issues were picked up for scrutiny assessment proceedings even from the statement of facts we are unable to see details of any notice either u/s. 142(1) or any other provisions of the Act except notices dated 19.09.2017 u/s. 133(6) of the Act to sister concerns (2) of assessee. Even despite service of notice the assessee is not representing and perusing his case before this Tribunal. Therefore we are inclined to hold that the Assessing Officer accepted returned income of assessee without any verification and examination of both the issues therefore it is a clear case of inadequate and insufficient enquiry. Thus, the Id. PCIT was quite justified and correct in alleging the assessment order as erroneous and prejudicial to the interest of revenue by following the preposition rendered by Hon'ble Supreme Court in the case of Shri Amitabh Bachhan 384 ITR 200 (SC). We are unable to see any valid reason to interfere with the revisionary action and order of the Id. PCIT passed u/s. 263 of the Act and hence, we uphold the same. Accordingly, grounds of assessee being devoid of merits are dismissed.

11. In the result, the appeal of assessee is dismissed.

Order pronounced in the open court on 17.10.2023

Sd/-
(G.S PANNU)
PRESIDENT

Sd/-
(CHANDRA MOHAN GARG)
JUDICIAL MEMBER

Dated: 17th October, 2023

NV/-

Copy forwarded to:

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

// By Order //

Asstt. Registrar, ITAT, New Delhi