

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "A" NEW DELHI**

**BEFORE SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER
AND
SHRI M BALAGANESH, ACCOUNTANT MEMBER**

आ.अ.सं./I.T.A Nos.9164 & 9165/Del/2019

निर्धारणवर्ष/Assessment Year:2014-15

ARN Infrastructure Ltd., 9, Birla House, Arya Samaj Road, Karol Bagh, New Delhi. PAN No. AAFCA6403M	<u>बनाम</u> Vs.	ACIT Central Circle-28, New Delhi.
अपीलार्थी Appellant		प्रत्यर्थी/ Respondent

Assessee by	Shri Manu Gawri, CA & Shri Madhav Gawri, Adv.
Revenue by	Shri Zafarul Haque Tanweer, CIT DR

सुनवाईकीतारीख/ Date of hearing:	09.01.2024
उद्घोषणाकीतारीख/Pronouncement on	05.04.2024

आदेश /O R D E R

PER C.N. PRASAD, J.M.

These two appeals are filed by the assessee against the different orders of the Ld.CIT(A)-31, New Delhi dated 26.09.2019 for the AY 2014-15 in respect of addition sustained u/s 68 of the Act and also sustaining the penalty levied u/s 271(1)(c) of the Act.

2. Ld. Counsel for the assessee, at the outset, submits that in this case the assessment was completed u/s 144 of the Act on 23.12.2016 by treating the entire other loans and advances reflected in the balance sheet as unexplained credits u/s 68 of the Act.

3. On appeal the Ld. CIT(Appeals) sustained the addition to the extent of Rs.8,39,62,299/- out of Rs.16,86,98,197/-. Ld. Counsel submits that assessee furnished additional evidences before the Ld.CIT(A) and the Ld.CIT(A) though called for a remand report sustained the addition u/s 68 of the Act to the extent of Rs. 8.39 crores i.e. the credits received during the year ignoring the confirmations filed by the assessee. Ld. Counsel submits that Rs.8,39,62,299/- represents the entire other loans and advances received during the year and there is no justification in treating the entire other loans and advances appearing in the balance sheet as an unexplained credit u/s 68 of the Act.

4. Heard rival submissions, perused the orders of the authorities below. We observed that the assessment was completed u/s 144 of the Act making an addition of Rs.16,86,98,197/- appearing in the balance sheet as closing balance of other loans and advances. On appeal the Ld.CIT(A) sustained an amount of Rs.8,39,62,299/- being

the entire other loans and advances appearing in the balance sheet which was received during the year without examining what it contains. Therefore, taking the totality of facts and circumstances into consideration, we are of the view that this matter should go back to the file of the AO for *denovo* verification and accordingly we restored this addition to the file of the AO for examining afresh after providing adequate opportunity of being heard to the assessee.

5. We also observed from the grounds of appeal that the assessee has challenged the addition made in respect of trade payable and various other expenses in ground no.6 to 8. We restore these grounds also to the file of the AO for adjudication afresh after providing adequate opportunity of being heard to the assessee.

6. The appeal arising out of ITA No.9165/Del/2019 is in respect of challenging the order of the Ld.CIT(A) in sustaining the penalty levying u/s 271(1)(c) of the Act. As we have restored the quantum appeal and the issues therein to the file of the AO for examining afresh the order of the AO levying penalty u/s 271(1)(c) of the Act is set aside and the same is restored to the file of the AO to decide along with the quantum assessment.

7. In the result, both the appeals of the assessee are allowed for statistical purpose.

Order pronounced in the open court on 05.04.2024

**Sd/-
(M BALAGANESH)
ACCOUNTANT MEMBER**

**Sd/-
(C.N. PRASAD)
JUDICIAL MEMBER**

Dated: 05.04.2024

**Kavita Arora, Sr. P.S.*

Copy of order sent to- Assessee/AO/Pr. CIT/ CIT (A)/ ITAT
(DR)/Guard file of ITAT.

By order

Assistant Registrar, ITAT: Delhi Benches-Delhi