

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'B': NEW DELHI**

**BEFORE SHRI C.N.PRASAD, JUDICIAL MEMBER  
AND  
SHRI AVDHESH KUMAR MISHRA, ACCOUNTANT MEMBER**

**ITA No.3729/Del/2019, A.Y. 2014-15**

Income Tax Officer, Ward 23(4), Room No. 246, C.R.Building, New Delhi	Vs.	SKD Buildcon Pvt. Ltd. 304, Kanchan House, Karampura Commercial Complex, New Delhi: 110015 PAN : AALCS4216Q
<b>(Appellant)</b>		<b>(Respondent)</b>

Appellant by	Sh. Ruchesh Sinha, Advocate
Respondent by	Sh. Sanjay Tripathi, Sr. DR

Date of Hearing	09/05/2024
Date of Pronouncement	30/05/2024

**ORDER**

**PER AVDHESH KUMAR MISHRA, AM:**

This appeal of the Assessment Year [In short, the 'AY'] 2014-15, preferred by the Revenue, challenges the order dated 25.02.2019, of the Commissioner of Income Tax (Appeals)-8, New Delhi [In short, the 'CIT(A)'].

2. The sole issue under consideration here is that whether the doubtful advances of Rs. 5,00,00,000/- realized/received back during the relevant year is taxable in accordance with the provisions of section 115JB of the Income Tax Act, [in short, the 'Act'].

3. The relevant facts for deciding this appeal, in brief, are that the assessee, a real estate developer, advanced Rs.5,00,00,000/- to Vatika Ltd. in the Financial Year [In short, the 'FY'] 2010-11 for land acquisition as per the terms & agreement entered into between Vatika Ltd. and the respondent/assessee. The said agreement was for Rs.30,00,00,000/-. Vatika Ltd. neither performed the services of land acquisition as per the terms and conditions of the agreement nor refunded the sum on demand. Therefore, the respondent/assessee made a provision for doubtful advance of Rs.5,00,00,000/- in its books of accounts during the F.Y. 2011-12 / A.Y. 2012-13. The respondent/assessee filed its Income Tax Return [In short, the 'ITR'] of AY 2012-13 showing loss of Rs. 84,712/- as per normal provisions of the Act after adding back the provision made for doubtful date in the net loss of Rs.5,00,84,712/-. Since, book result was in loss; therefore, the income chargeable to tax in accordance with the provisions of section 115JB of the Act was not worked out in the said ITR. Later, in the relevant year/A.Y. 2014-15, Vatika Ltd. refunded back to the sum of Rs.5,00,00,000/- to the respondent/assessee on 12.05.2013. Hence, the respondent/assessee suo-moto added back Rs. 5,00,00,000/- as an income in its Profit & Loss account, which resulted book profit of Rs.4,99,39,737/-. However, the respondent/assessee worked out of loss of Rs.60,263/- in the ITR of the relevant year/A.Y. 2014-15, in accordance with the

normal provision of the Act and Loss in accordance with the provisions of section 115JB of the Act. The case of relevant year was scrutinized and the consequential assessment was completed under section 143(3) of the Act on 25.02.2019 determining loss of Rs.60,263/- under the normal provision of the Act and income/book profit at Rs.4,99,39,737/- under section 115JB of the Act (after adding back Rs.5,00,00,000/- under section 115JB of the Act).

4. On appeal, the addition of Rs.5,00,00,000/- made while working out the book profit u/s 115JB of the Act was knocked off by the CIT(A) on the reasoning that the provision for doubtful debt/advances created in the AY 2012-13 received back in the relevant year needed to be deducted while working out the book profit in accordance with the provision of section 115JB of the Act.

5. The Ld. Sr. DR, placing emphasis on the reasoning of the AO mentioned in the assessment order, prayed for reversal of finding of the CIT(A) and restoration of the AO's order.

6. The Ld. Counsel submitted that the AO had worked out the book profit in accordance with the provisions of section 115JB of the Act by adding back the refund of advance of Rs.5,00,00,000/- (against which the provision was made in F.Y. 2011-12) on the reasoning that this sum had not been added back while working out the book profit in accordance with the provisions of section 115JB of

the Act in AY 2012-13; therefore, the same could not be allowed as deduction in the relevant year. It was argued that the AO's reasoning; prima-facie, was in contravention of the provisions of section 115JB of the Act as there was no book profit in the A.Y. 2012-13 even after adding back the provision of doubtful advance of Rs.5,00,00,000/-. When there was no book profit in the present case, the provision of MAT was not applicable in A.Y. 2012-13; therefore, the same was not shown in the Schedule of the ITR, it was submitted by the Ld. Counsel. The reasoning of the AO that the said provision should have been added back in working out the book profit, in AY 2012-13, in accordance with the provisions of section 115JB of the Act; therefore, was not justified. However, the respondent/assessee, while working out the income in accordance with the normal provision of the Act had added back the provision of Rs.5,00,00,000/- in the ITR of AY 2012-13. It was further contended that the provisions of section 115JB of the Act are applicable only when there is book profit after adjustments in accordance with the Explanation -1 of section 115JB of the Act. Since, there was no income in AY 2012-13 and 2014-15 after adjustment in accordance with the law; therefore, the income in accordance with the provisions of section 115JB of the Act could not be deduced therefrom. It was also contended that the net effect of taxes paid as per provisions of Section 115JB of the Act is a revenue neutral as the tax paid in

preceding year is allowable for credit of the same in subsequent years as per the law.

7. We have heard both the parties at length and perused the material available on the record. We find force in the argument of Ld. Counsel. The accounting treatment given to the provision for doubtful advance made in AY 2012-13 and subsequent reversal of the same in AY 2014-15 are as under:-

***Treatment of Provision for doubtful advances: - Amount in Rs.***

<i>Provision for doubtful advances as on 01.04.2013 as per Audited balance Sheet</i>	<i>5,00,00,000/-</i>
<i>Less-Amount withdrawn during the FY 2013-14</i>	<i>5,00,00,000/-</i>
<i>Provision for doubtful advances as on 31.03.2014 as per Audited Balance sheet</i>	<i>NIL</i>

***Similarly, Treatment of Reserve and Surplus: -***

<i>Reserve and Surplus as on 01.04.2013 as per Audited Balance Sheet</i>	<i>(5,04,55,858)</i>
<i>(+) Book Profit for the FY 2013-14 (due to recovery of doubtful advance)</i>	<i>4,99,39,737</i>
<i>Reserve and Surplus as on 31.03.2014 as per Audited Balance Sheet</i>	<i>(5,16,121)</i>

8. The AO had worked out income under MAT by holding that the respondent/assessee had not added back the provision of doubtful advances of Rs.5,00,00,000/- in schedule MAT of ITR of 2012-13 when the provision for doubtful advance was created; therefore, the same could not be allowed as a deduction in the relevant year, i.e. AY 2014-15. However, the fact is that the provision of MAT was not applicable in AY 2012-13 even after adjustment as per explanation-1 to the section 115JB of the Act. We are of the considered view that

the respondent/assessee is not required to fill up the schedule MAT when there is no book profit as the law do not mandate so.

8. In view of the above and in particular the Explanation-1 of the section 115JB of the Act, we are of the view that when the provision for doubtful advance made earlier is received back in the subsequent year, then the same has to be deducted from the profit while working out the book profit in accordance with the provision of section 115JB of the Act, if there was no book profit even after adding back the said provision for doubtful debt/advance. Thus, we do not find this case fit to interfere with the finding of the CIT(A).

9. The appeal of the Revenue is, thus stands dismissed.

Order pronounced in open Court on 30<sup>th</sup> May, 2024.

**Sd/-**

**(C.N.PRASAD)  
JUDICIALMEMBER**

Dated:30/05/2024  
*B.R., Sr. Ps.*

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

**Sd/-**

**(AVDHESH KUMAR MISHRA)  
ACCOUNTANT MEMBER**

ASSISTANT REGISTRAR  
ITAT, NEW DELHI