

**IN THE INCOME TAX APPELLATE TRIBUNAL DELHI
(DELHI BENCH 'E' NEW DELHI)**

**BEFORE SH. S. RIFAUR RAHMAN, ACCOUNTNAT MEMBER
AND MS. MADHUMITA ROY, JUDICIAL MEMBER**

ITA No.5645/Del/2017 A.Y. 2013-14

Mayurdhwaj Projects P. Ltd., C/o Luthra & Luthra, Lae Offices, 103, Ashoka Estate, Barakhamba, New Delhi -110 001 PAN No. AAECM 7077 J	Vs.	DCIT, Circle – 16 (2) New Delhi – 110 002
Appellant		Respondent

Assessee by	-None-
Revenue by	Sh. Anshul, Sr. DR
Date of Hearing	29/05/2024
Date of Pronouncement	31/05/2024

ORDER

PER MADHUMITA ROY, JUDICIAL MEMBER :

The instant appeal filed at the behest of the assessee is directed against the common order dated 13.07.2017 passed by the CIT(A) – 37, New Delhi, arising out of the order dated 21.03.2016 passed by the ITO, Circle-16 (2), New Delhi under Section 143(3) of

the Income Tax Act, 1961 (hereinafter referred to as "the Act") for A.Y. 2013-14.

2. The assessee has raised the following grounds of appeal :-

1. *"The order passed by the Learned Commissioner of Income Tax (Appeals) (Ld. CIT(A)) under Section 250(6) of the Act is bad in law and on the facts and circumstances of the case.*
2. *The Ld. CIT(A) has erred in law and on the facts and circumstances of the case in upholding the order of the Learned Assessing Officer ("Ld. AO") in treating receipt from debtors as rental income for AY 2013-14 and thereby making an addition of Rs. 21,08,166/-.*
3. *The CIT(A) has erred in law and on the facts and circumstances of the case in ignoring the fact that these rental receipts pertain to earlier year and offered to tax in those years as the appellant follows the accrual basis of accounting.*
4. *The Ld. CIT(A) has erred in law and on the facts and circumstances of the case in upholding the order of the Ld. AO in making an addition of Rs. 20,20,884/- on account of interest on income tax refund, in the absence of intimation under Section 143(1) of the Act being issued, for bifurcation of the interest and principal amount.*
5. *The Ld. CIT(A) has erred in law and on facts and circumstances of the case in confirming the addition of Rs. 65,77,896/ made by the Ld. AO on account of bad debts being written off from the Profit & Loss Account of the appellant.*
6. *The Ld. CIT(A) has erred in law and on facts and circumstances of the case in upholding the addition made by the Ld. AO amounting to Rs. 1,22,86,252/- under Section 41 of the Act.*
7. *The Ld. CIT(A) has erred in law and on the facts and circumstances of the case in upholding the order of the Ld. AO, thereby making the impugned additions.*

8. *The above grounds of appeals are independent and without prejudice to one another.*
9. *The appellant may be allowed to add / withdraw or amend any ground of appeal at the time of hearing.”*

3. The assessee filed its return of income on 27.09.2013 declaring a loss of Rs.61,97,730/-. Upon selection of the matter under scrutiny, notice under Section 143 (2) dated 30.09.2014 was issued followed by other statutory notices. The assessment was finalized upon making the following additions :-

Loss declared by the assessee		(-) Rs.61,97,730/-
Add: (i) Interest u/s. 244A (ii) Rental receipt (iii) Bad debts (iv) Addition u/s. 41	Rs.20,20,884/- Rs.21,08,166/- Rs.65,77,896/- Rs.1,22,86,252/ -	2,29,93,198/-
Total income		Rs.1,67,95,468/-
Rounded off to		Rs.1,67,95,470/-

4. It was further confirmed by the First Appellate Authority. Hence, the instant appeal before us.

5. At the time of hearing of the matter none appeared on behalf of the assessee. Further that, it appears from the official records that in previous occasions also, no one represented the assessee before us when the matter was fixed for hearing. Thus, we find that the assessee is no more interested in the matter and have decided to proceed with the matter ex-parte.

6. The Ld. CIT(A) while dealing with the appeal preferred by the assessee and confirming the order passed by the AO observed as under:-

"4. Notice dated 18/5/2017 was issued fixing the case for 30/5/2017 subject to curing of defect in verification portion of Form 35. The appellant was requested to file amended verification portion of Form 35 to align the same in accordance with section 140 of the Act. The appellant filed amended verification portion on 30/5/2017 (dak 578). Another notice dated 8/6/2017 was issued fixing the case for 14/6/2017 as Final opportunity which served vide ED 711574548IN categorically seeking "3.1 Please file copy of reply dated 8/2/2016 filed wrt bad debts, rental receipts, agreements as regards procurement of land rights from Unitech Amusement parks Lid (UAPL) etc before AO.. "The appellant vide its it dated 14/06/2017 sought 14/6/2017 time (dak 673). which was received vide hand by thereafter the counsel CA Sh 7.3). The counsel was again issued notice dated 14/6/2017 by appellants counsel Sh Rishi Gupta (Mobile 9717397631)and Rohit Tiwari &Sh Kallash Rana (Luthra & Luthra) attended and filed WS & paperbook appeared on 20/6/2017 (vide dak no 714 on 20/6/25 The matter was to file documents examined and this office 20/6/2017) along with documentation, POA. The matter was examined and this office vide ordersheet entry dated 20/06/2017 requested the appellant to file documents as relating to assignment of lease rental rights as being claimed by it to substantiate its stand of trade creditors

payable of Rs 1.23Cr odd sum and other details of other earlier years annual accounts etc of bad debts etc as the same were germane to issue at hand. The matter was hence details filed by appellant and submissions made therein, SOF, etc have been carefully examined and the same filed mention at relevant paras subsequently.

4.1 A curious feature seen in appellants file in that the GOA raised by different from that raised in hard copy of Form 35. The only difference in hard copy GOA is taking of by appellant in e-file Form 35 is an omnibus overarching GOA and residual GOA of making amendment etc to GOAs Thus holistically speaking, the crux of matters e-form 35 is taken, in appeal would stand which is hence too adopted. This office adjudicate the appeal as the very concept of adjudicated even if the OOA framed in has taken the GOAs filed in e-Form 35 to amending the GOA has to mising of additional GOA too would need / necessitate moving of separate application in this regard. be specifically stated and further Both these aspects are amiss and hence GOA as framed/recorded by appellant in e-Form 35 are the basis of determination of instant appeal proceedings. 41 of the Act is against

5. The first GOA relates to grievance that addition of Rs. 1,22,86,252/-u/s the principles of equity and natural justice- The matter has been examined. The GOA raised in eform 35 is not happily worded. The appellant has tried to agitate the addition of Rs 1,22,86,252/- per se. On grounds of equity and natural justice alone the appeal of appellant must fall as this office finds adequate opportunity was granted by AD to appellant to put forth its case. The matter/principles of natural justice was fully met. The AO has stated at para 4 of assessment order that "Trade payable to fellow subsidiaries (Rs.1,22,86,252/-). At note no.5 to the financial statement, an amount of Rs.1,22,86,252/- is appearing as other current liabilities on account of related parties. Vide order sheet entry dated 18.01.2016 the AR of the assessee was asked to submit justification and explanation along with supporting documentary evidences in this regard. The AR of the assessee was also asked to submit the details of the transactions. Copy of agreement and copy of ledger account in this regard. The assessee vide letter dated 08.02.2016 submitted its reply as under :- "As regard trade payable being shown in the name of fellow subsidiary company. It is submitted that the assessee company procured the land rights from M/s. Unitech Amusement Parks Ltd. (UAPL). When the agreement expired the tenants still paid the rent to the assessee company which might have been paid to the UAPL. Thus, this created liability

of the assessee company towards its fellow subsidiary company i.e. UAPL. It is because of this reason that the trade payables inter alia are appearing in the name of UAPL (emphasis supplied)

The submission of the assessee has been considered carefully and found not to be acceptable. The assessee did not submit details of the transactions, copy of the ledger accounts. Copy of the agreement entered into with fellow subsidiary company. In view of this, trade payable shown as other current liability amounting to Rs.1,22,86,252/- is treated as profit and gains of the assessee company as per section 41 of the Income Tax Act, 1961 and added back to the total income of the assessee company.”

7. We do not find any infirmity in the order passed by the Ld. CIT(A) for the reasons assigned therein appeal particularly in the absence of any assistance rendered by the assessee before us. The order passed by the Ld. CIT(A) is, therefore, confirmed. The assessee's appeal is found to be devoid of any merit and dismissed.

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

Order pronounced in the open court on 31st May, 2024.

Sd/-

**(S.RIFAUH RAHMAN)
ACCOUNTANT MEMBER**

Sd/-

**(MADHUMITA ROY)
JUDICIAL MEMBER**

Date:- 31.05.2024

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI