

**IN THE INCOME TAX APPELLATE TRIBUNAL  
'A' BENCH : BANGALORE**

**BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER  
AND  
SHRI KESHAV DUBEY, JUDICIAL MEMBER**

<b>ITA No. 1067/Bang/2019</b>
<b>Assessment Year : 2014-15</b>

The Deputy Commissioner of Income Tax, Central Circle – 1(3), Bangalore.	<b>Vs.</b>	M/s. Sical Logistics Ltd., South India House, 73 Armenian Street, Chennai – 600 001.
<b>APPELLANT</b>		<b>RESPONDENT</b>

Assessee by	:	Shri Ravindra .T, CA
Revenue by	:	Shri D.K. Mishra, CIT-DR

Date of Hearing	:	29-05-2024
Date of Pronouncement	:	09-07-2024

**ORDER**

**PER KESHAV DUBEY, JUDICIAL MEMBER**

This appeal at the instance of the revenue is directed against the Order of Ld.CIT(A)-15, Chennai dated 30.01.2019 passed u/s. 250(6) of the IT Act, 1961 for the A.Y. 2014-15.

## 2. The revenue has raised the following grounds:

Sl. No.	Grounds of Appeal	Tax effect relating to each Ground of appeal
1.	<i>Whether on facts and in circumstances of the case and in law, the Ld. CIT(A) is right in holding that disallowances of expenditure u/s. 14A can be made only to the extent of exempt dividend income earned by the assessee during the year of Rs. 61,42,652/- in contravention to the Circular No. 05/2004 dated 11.02.2014, issued by the Central Board of Direct Taxes.</i>	Rs.5,27,81,793/-
2.	<i>Whether on facts and in circumstances of the case and in law, the Ld. CIT(A) is justified in holding that expenditure disallowed u/s. 14A made under normal tax computation is to be excluded while computing Book Profit u/s. 115JB by relying on the decision in the case of Vireet Investments and in the case of Apollo Tyres which have been referred by the assessee.</i>	Rs.3,38,38,399/-
3.	<i>Whether on facts and in circumstances of the case and in law, the Ld. CIT(A) is justified in holding that expenditure disallowed on account of foreign exchange fluctuation difference on loans and advances of Rs.1,30,75,000/- confirmed by the Ld.CIT(A) made under normal tax computation is to be excluded while computing Book Profit u/s. 115JB by relying on the decision in the case of Vireet Investments and in the case of Apollo Tyres which have been referred by the assessee.</i>	Rs.27,40,585/-

4.	<i>Whether on facts and in circumstances of the case and in law, the Ld. CIT(A) has erred in not relying on the ITAT, Bangalore Bench decision in the case of M/s. Shoba Developers Limited in ITA No.1410(Bang) of 2013 and ITAT Mumbai decision in the case of Dy. CIT vs. Viraj Profiles Ltd. 156 ITD 72/46 ITR 626/177 TTJ 466 of 2016 which are in favour of revenue on the issue of addition of disallowances u/s. 14A while computing Book Profit u/s. 155JB.</i>	As per Sl. No. 2&3
	<i>Total tax effect</i>	Rs.8,93,60,777/-

3. At the Outset the Ld. AR drew our kind attention to the order passed by the Hon'ble National Company Law Tribunal, Division Bench-I, Chennai in Appeal No. IA(IBC)/366(CHE)/2022 in IBA/73/2020 along with IA(IBC)/102(CHE)/2022 in IBA/73/2020 vide order pronounced on dated 08.12.2022.

4. The Ld. AR of the Assessee further submitted that the Corporate Insolvency Resolution Process ("CIRP") was initiated against Sical Logistics Limited ("Assessee Company"/"Corporate Debtor") by virtue of the order passed by the Hon'ble National Company Law Tribunal, Chennai Bench ("NCLT") dated March 10, 2021 ("Insolvency Commencement Date") in accordance with the provisions of the Insolvency and Bankruptcy Code 2016 ("Code") and the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016 ("CIRP Regulations"). Further, Mr. Sripatham Ramkumar Venkatasubramanian (IBBI Registration No. IBBI/IPA-001/IP-P00015/2016-17/10039) was appointed as the resolution professional ("RP") of the Corporate Debtor by the Hon'ble NCLT.

The CIRP culminated in Hon'ble NCLT approving the resolution plan submitted by Pristine Malwa Logistics Park Private Limited dated February 11, 2022 ("Approved Resolution Plan") for the Corporate Debtor vide its order dated December 08, 2022 ("Plan Approval Order").

Further pursuant to the resolution, the NCLT in **page 29 Clause 7**, has provided relief sought under clause 9.21.1 (g) in the resolution plan in terms of judgement of Supreme Court in case of Ghanashyam Mishra and Sons Vs. Edelweiss Asset reconstruction Company Limited (2021 SCC Online SC 313). The extract of the relevant clause from the Order of the NCLT is given below for reference-

*"The Corporate Debtor and the Resolution Applicant shall be exempt from all dues under the provisions of the Income-tax Act, including taxes, duties, penalties, interest, surcharge, fines, cesses, charges, unpaid tax deducted at source or tax collected at source (including without limitation, the income tax dues), whether admitted or not, due or contingent, whether or not set out in the Information Memorandum, Virtual Data Room, the balance sheets of the Corporate Debtor or the profit and loss account statements of the Corporate Debtor or the list of creditors, asserted or unasserted, assessed or not, crystallised or uncrystallised, known or unknown, secured or unsecured, disputed or undisputed, present or future, in relation to any period prior to the Effective Date or arising on account of the acquisition of control by Resolution Applicant. Upon the approval of this Resolution Plan, all notices, assessments (whether commenced or not), appellate or other proceedings pending or threatened in relation to the Corporate Debtor, in relation to actions / omissions pertaining to any period prior to the Effective Date or arising on account of the acquisition of control by Resolution Applicant shall stand terminated and withdrawn, and all consequential liabilities, if any, arising out of the aforesaid shall stand extinguished and settled. .*  
**The re-assessment, revision or other proceedings**

***under the provisions of the Income-tax Act and all consequential liabilities, if any, arising out of the aforesaid shall stand exempted, settled and withdrawn.*** It is hereby clarified that the Corporate Debtor and the Resolution Applicant have an option to continue the income-tax appellate proceedings pending at various forums. However, if the appellate matters are adjudicated against the Corporate Debtor or the Resolution Applicant, then all dues (including but not limited to tax, interest, penalty, fee etc.) as envisaged above shall stand terminated and withdrawn; ".

In view of the above the Id. AR requested that the appeal of the Income tax Department against Sical Logistics Limited should be dismissed.

5. The Ld. DR on the other hand requested that as the issue involved needs to be examined by the AO & accordingly prayed to remit the issue to the file of AO to give proper effect.

6. We have heard the rival parties & perused the material available on record. We have also gone through the Order of the Hon'ble National Company Law Tribunal, Division Bench-I, Chennai in Appeal No. IA(IBC)/366(CHE)/2022 in IBA/73/2020 along with IA(IBC)/102(CHE)/2022 in IBA/73/2020 vide order pronounced on dated 08.12.2022.

We are of the opinion that since, the Hon'ble National Company Law Tribunal has granted relief from proceedings under the provisions of the Income tax Act, 1961 and all consequential liabilities & accordingly, we remit this issue to the file of Ld.AO and direct the revenue to pass an order in terms of the NCLT order & give effect accordingly.

**In the result, the appeal filed by the revenue is partly allowed for statistical purposes.**

**Order pronounced in the open court on 09<sup>th</sup> July, 2024.**

Sd/-  
(CHANDRA POOJARI)  
Accountant Member

Sd/-  
(KESHAV DUBEY)  
Judicial Member

Bangalore,  
Dated, the 09<sup>th</sup> July, 2024.  
/MS /

Copy to:

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|---------------|------------------------|
| 1. Appellant  | 2. Respondent          |
| 3. CIT        | 4. DR, ITAT, Bangalore |
| 5. Guard file | 6. CIT(A)              |

By order

Assistant Registrar,  
ITAT, Bangalore