

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

**BEFORE SMT. BEENA PILLAI, JUDICIAL MEMBER
AND
SHRI WASEEM AHMED, ACCOUNTANT MEMBER**

ITA No. 1007/Bang/2024
Assessment Year : 2017-18

M/s. Featherlite Office Systems Pvt. Ltd., KKMP Building, Miller Road, Vasant Nagar, Bangalore – 560 052. PAN: AAACF2938D	Vs.	The Deputy Commissioner of Income Tax, Central Circle – 1(1), Bangalore.
APPELLANT		RESPONDENT

Assessee by	:	Shri Padam Chand Khincha, CA
Revenue by	:	Shri D.K. Mishra, CIT-DR

Date of Hearing	:	30-07-2024
Date of Pronouncement	:	21-08-2024

ORDER

PER BEENA PILLAI, JUDICIAL MEMBER

Present appeal arises out of order u/s. 263 passed by the Ld.PCIT (Central), Bengaluru for A.Y. 2017-18 on following grounds of appeal:

“General Ground

1.1. *The order passed by the learned Principal Commissioner of Income Tax, Central under section 263 of the Act to the extent prejudicial to the appellant is bad in law and liable to be quashed.*

2. Addition of Provision for doubtful debts of Rs. 1,67,51,026 to book profit under section 115JB

2.1. *The learned Principal Commissioner of Income Tax, Central, Bangalore erred in concluding that the issue of book profit calculation under section 115JB has not been examined and verified by the AO in the assessment order passed under section 153A dated 25.9.2021 for AY 2017-18.*

2.2. *The learned Principal Commissioner of Income Tax, Central, Bangalore erred in concluding that the addition of Provision for doubtful debts of Rs. 1,67,51,026 in computing book profit under section 1151B has not been considered and hence the assessment order is erroneous and prejudicial to the interests of revenue.*

2.3. *Without prejudice, the learned Principal Commissioner of Income Tax, Central, Bangalore erred in concluding that the Provision for doubtful debts of Rs. 1,67,51,026 is required to be added back in computing book profit under section 115JB as per clause (i) in Explanation 1 to section 115JB.*

2.4. *The learned Principal Commissioner of Income Tax, Central, Bangalore erred in not appreciating that the Provision for doubtful debts of Rs. 1,67,51,026 was reduced from trade receivables in the Balance sheet and hence the same amounted to actual write off of receivables and consequently such actual write off would not be hit by clause (i) of Explanation 1 to section 115JB.*

2.5. *On facts and circumstances of the case and law applicable, the impugned conclusion of the PCIT, Central Bangalore that the Provision for doubtful debts of Rs. 1,67,51,026 should be added to book profit under section 115JB is bad in law and liable to be quashed.*

3. Prayer

3.1. *In view of the above and other grounds to be adduced at the time of hearing, the appellant prays that the order passed under section 263 of the Act by the learned PCIT,*

Central, Bangalore be cancelled or in the alternative it be held that the Provision for doubtful debts of Rs. 1,67,51,026 is not to be added to book profit under section 1151B as per clause (i) of Explanation 1 to section 115JB.

The Appellant submits that each of the above grounds/sub-grounds are independent and without prejudice to one another.

The Appellant craves leave to add, alter, vary, omit, substitute or amend the above grounds of appeal, at any time before or at, the time of hearing, of the appeal, so as to enable the Income-tax Appellate Tribunal to decide the appeal according to law.

The appellant prays accordingly.”

2. Brief facts of the case are as under:

2.1. Assessee filed its original return of income for year under consideration on 22/03/2018 declaring total income of Rs.4,66,38,270/-. The assessment was completed u/s. 153A r.w.s. 143(3) of the act on 25/09/2021.

2.2. Subsequently, the show cause notice u/s. 263 of the act was issued to revise the assessment order passed u/s. 153 of the act dated 25/09/2021 by the Ld.PCIT on 31/01/2024. The Ld.PCIT noted that, during the course of the assessment proceedings u/s. 153A, the issue of book profits calculation u/s. 115JB was not examined and verified by the Ld.AO. The Ld.PCIT noted that the assessee had debited Rs. 1,67,51,026/- as provision towards doubtful debts and added the same in computation of income under the normal provisions however it was not considered for the purposes of computing book profit. The Ld.PCIT was therefore of the opinion that the same is required to be added to the book profit as well, and since the assessment order did not

consider this aspect, the assessment order was held to be erroneous insofar as prejudicial to the interest of revenue.

2.3. In response to the notice u/s. 263 of the act, the assessee filed its reply on 05/06/2023. It was submitted by the assessee that the issue considered by the Ld.PCIT u/s. 263 of the act does not fall within the scope of the expression “erroneous insofar as prejudicial to the interest of revenue”. The assessee placed heavy reliance on the decision of *Hon’ble Supreme Court* in case of *Malabar Industrial Co. Ltd. vs. CIT* reported in 243 ITR 83 wherein *Hon’ble Supreme Court* expressed the view that, in case the officer does not agree with the view, cannot be treated as erroneous or prejudicial to the interest of revenue unless the view taken by the income tax officer is unsustainable in law. The assessee placed reliance on the following decisions before the Ld.PCIT in support of the claim that, merely debiting a bad debt to the profit and loss account would not constitute actual write off.;

- *Hon’ble Supreme Court in case of CIT vs. Vijaya Bank Ltd. reported in TS-120-SC-2010-O dated 15/04/2010*
- *Hon’ble Karnataka High Court in case of CIT vs. Kirloskar Systems Ltd. reported in TS-587-HC-2013(KAR)-O dated 28/10/2013*
- *Hon’ble Gujarat High Court in case of CIT vs. Vodafone Essar Gujarat Ltd. reported in TS-5721-HC-2017(Gujarat)-O dated 04/08/2017*
- *Hon’ble Karnataka High Court in case of CIT vs. Yokogawa India Ltd. reported in TS-5560-HC-2011 dated 29/08/2011*

2.4. The Ld.PCIT however after considering the submissions of the assessee relied on the decision of *Hon'ble Karnataka High Court* in case of *State Industrial & Infrastructure Development Corpn. Ltd. vs. DGIT* reported in (2021) 128 taxmann.com 412. The Ld.PCIT submitted that, the decisions relied by the assessee do not have any relevance for the year under consideration as it is passed prior to the insertion of clause (i) in Explanation after section 115JB(2). The Ld.PCIT was thus of the opinion that post the insertion of clause (i) in Explanation to section 115JB(2), the provisions of doubtful debts are to be added to the computation of book profit. The Ld.PCIT thus directed the assessing officer to complete the assessment proceedings afresh in the light of the observations made in the impugned order.

Aggrieved by the order of the Ld.PCIT, assessee is in appeal before this *Tribunal*.

3. The Ld.AR at the outset submitted that, mere debit to P&L account would not constitute a provision for bad and doubtful debts. He also submitted that, it also would not constitute actual write off. He submitted that, sum of Rs.1,67,51,026/- being provision for doubtful debts was not added back while computing the profits u/s. 115JB by virtue of clause (c) to Explanation (1) to sub-section (2) of section 115JB of the act. He emphasised that the said provision was towards doubtful debts and was not connected with meeting any liabilities other than ascertained liabilities.

3.1. Referring to the financials of the assessee at page 67 being notes to profit and loss account, he submitted that a said amount was debited to profit and loss account note 22 under the head other expenses. Thereafter, referring to page 55 being note 12 to the balance sheet for the year under consideration, the Ld.AR submitted that the said amount was reduced from trade receivables and that what is appearing in the balance sheet net amount.

3.2. He emphasised that *Hon'ble Supreme Court* in case of *HCL Comnet Systems and Services Ltd.* reported in *(2008) 174 Taxman 118* has observed that the then existing clause (c) did not cover a case where an assessee makes the provision for bad or doubtful debts and with the insertion of clause (i) to the explanation with retrospective effect, any amount or amounts set aside for provision for diminution in the value of the asset made by the assessee, would be added back for computation of book profit u/s. 115JB of the act. *Hon'ble Court* further observed that even if this was not a mere provision made by the assessee by merely debiting the profit and loss account and crediting the provision for bad and doubtful debt, but by simultaneously obliterating such provision from its accounts by reducing the corresponding amount from the loans and advances on the asset side of the balance sheet and consequently, at the end of the year showing the loans and advances on the asset side of the balance sheet as net of the provision for bad debt, it would amount to a write off and such actual write off would not be hit by clause (i) of the explanation to section 115JB of the act.

3.3. The Ld.AR submitted that the assessee has actually reduced the provision for bad and doubtful debts from the asset side of the balance sheet has been explained hereinabove and therefore amounts to the write off rather than the provision for bad and doubtful debts. He thus prayed that the clause (i) to the explanation to section 115JB relied by the Ld.PCIT is not attributable to the present facts of the case.

3.4. On the contrary, the Ld.DR relied on the orders passed by authorities below.

We have perused the submissions advanced by both sides in the light of records placed before us.

4. We note that the Ld.PCIT held the assessment order passed u/s. 153A bad in law as the Ld.AO did not consider the provision for bad debts while computing the book profits u/s. 115JB of the act. In observing so, Ld.PCIT relied on the clause (i) of explanation (1) of section 115JB(2) of the act.

4.1. On perusal of the financials of the assessee, having regard to the profit and loss account and the balance sheet, we note that there is a corresponding reduction of Rs.1,67,51,026/- from the loans and advances on the asset side of the balance sheet and consequently showing the net of provision for bad debt. *Hon'ble Supreme Court* in case of *HCL Comnet Systems and Services Ltd. (supra)* has observed that such actual write off would not be hit

by clause (i) of explanation to section 115JB. Thus it cannot be only considered as a mere provision of account of bad and doubtful debts debited in the P&L account.

4.2. It is noted that *Hon'ble Supreme Court* in case of *CIT vs. Vijaya Bank Ltd. (supra)*, has also observed that, by debiting to P&L Account for provision of bad and doubtful advances and by reducing the same amount from the loans and advances as appearing in the balance sheet there has obliterated the said provision from its accounts and therefore would be an instance of write off and not a mere provision.

4.3. *Hon'ble Karnataka High Court* in similar situation in case of *CIT vs. Kirloskar Systems Ltd. (supra)*, took the view that, the addition of provision of bad and doubtful debts as per P&L account to determine the book profits u/s. 115JB of the act is not warranted. *Hon'ble Court* held as under:

“provision for diminution in value of assets debited to profit and loss account is not required to be increased as per clause (i) of Explanation 1 to section 115JB to compute book profit under section 115JB when assessee has debited diminution in value of assets as a provision to profit and loss account and simultaneously reduced the said sum from the advances shown in the balance sheet. Similarly, provision for doubtful debts debited to profit and loss account is not required to be increased as per clause (c) of Explanation 1 to section 115JB to compute book profit under section 115JB.

18. In the light of aforesaid decision of the Honble jurisdictional High Court, we are of the view that the provision for bad and doubtful advances debited in the P&L account and its simultaneous reduction in the loans & advances in the balance sheet will not only mean that there was an actual write off of bad and doubtful advances in the P&L account, but also that there was no

deduction claimed on account of provision by the assessee.”

4.4. The assessee before this *Tribunal* has followed identical accounting of the provision for bad and doubtful debt as observed in para 3.1 hereinabove.

Accordingly, we are of the view that the directions by the Ld.PCIT to the Ld.AO to complete the assessment proceedings afresh in the light of the observations in the impugned order is bad in law.

Accordingly, the grounds raised by the assessee stands allowed.

In the result, the appeal filed by the assessee stands allowed.

Order pronounced in the open court on 21st August, 2024.

Sd/-
(WASEEM AHMED)
Accountant Member

Sd/-
(BEENA PILLAI)
Judicial Member

Bangalore,
Dated, the 21st August, 2024.
/MS /

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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