

आयकर अपीलिय अधिकरण, 'डी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'D' BENCH, CHENNAI

श्री महावीर सिंह, उपाध्यक्ष एवं श्री अमिताभ शुक्ला, लेखा सदस्य के समक्ष
BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER

विविधया चिकासं/ M.A. No.	Arising in I.T.A. No.	निर्धारण वर्ष / Assessment Year
M.A.No.61/CHNY/2024	1085/CHNY/2017	2013-14
M.A.No.67/CHNY/2024	1585/CHNY/2019	2014-15
M.A.No.66/CHNY/2024	1584/CHNY/2019	2015-16
M.A.No.65/CHNY/2024	639/CHNY/2020	2016-17
M.A.No.64/CHNY/2024	13/CHNY/2023	2017-18
M.A.No.63/CHNY/2024	1108/CHNY/2022	2018-19
M.A.No.62/CHNY/2024	42/CHNY/2023	2019-20

**United India Insurance
Co.Ltd.,**
24, Whites Road,
Chennai – 600 014.

**The Assistant Commissioner
of Income Tax,**
Corporate Circle-3(2),
Chennai.

PAN: AAACU 5552C

(अपीलार्थी/Applicant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से /Applicant by
प्रत्यर्थी की ओर से/Respondent by

: Shri S. Sundararaman, CA
: Ms. R. Anita, Addl.CIT

सुनवाई की तारीख/Date of hearing

: 23.08.2024

घोषणा की तारीख /Date of Pronouncement

: 28.08.2024

आदेश /ORDER

PER AMITABH SHUKLA, AM:-

By way of these four Miscellaneous Applications in MA
Nos.61,67,66 & 65/CHNY/2024, the assessee has requested for

rectification of mistake apparent from record in the order of the Tribunal dated 19.07.2024 in observing that the assessee has agreed for the following issues to be remitted back to the AO:-

- “i. Addition made in respect of Reserve for Unexpired Risks (URR) u/s 115JB of the Act – page 27, para 16.2 of the order*
- ii. Provision made towards Claims Incurred But Not Reported (IBNR) and Claims Incurred But Not Enough Reported (IBNER) added to the Book profits u/s 115JB of the Act – page 23, para 15.8 of the order.*

2. The assessee has raised this mistake apparent from record in the order of Tribunal in para 16.3 at pages 28 & 29 and pointed out as under:-

“Hence, taking a consistent view as agreed by both the learned counsels for assessee as well as Revenue, we remit this issue back to the file of the Assessing Officer with similar directions to the Assessing Officer mentioned in para 15.10 of this order.”

2.1 The Id.Senior DR has raised no objection for rectification of this mistake.

2.2 After hearing rival contentions and going through the order of Tribunal, we feel that the Tribunal made mistake in observing that the assessee agreed and hence, the above line may be read as under:-

“Hence, taking a consistent view, we remit this issue also back to the file of the AO with similar direction to the AO as mentioned in para 15.10 of this order.”

3. As regards to IBNR/IBNER, the issue is dealt with in para Nos.15.8 & 15.9 at pages 24 & 25 and the relevant observation, the assessee is seeking for rectification for the order, is as under:-

“15.8 The Ld.Senior Standing Counsel for the Revenue has also fairly agreed that this issue is neither adjudicated by the CIT(A) nor the Tribunal, on merits and only some facts are available in the order of the Assessing Officer. Hence, both the sides have agreed that this issue can be remitted back to the file of the Assessing Officer before whom the assessee will place all evidences and prove whether claim made by the assessee is ascertained liability or unascertained liability.”

The same may be read as under:-

“15.8 The Ld.Senior Standing Counsel for the Revenue pointed out that this issue is neither adjudicated by the CIT(A) nor the Tribunal, on merits and only some facts are available in the order of the Assessing Officer. Hence, this issue can be remitted back to the file of the Assessing Officer before whom the assessee will place all evidences and prove whether claim made by the assessee is ascertained liability or unascertained liability.”

4. In term of the above, we rectify these mistakes in all these four miscellaneous applications MA Nos.61,67,66 & 65/CHNY/2024 of the assessee.

5. By way of this miscellaneous application, MA No.64/CHNY/2024 for the assessment year 2017-18, the assessee has requested for rectification of mistake apparent from record in the

order of Tribunal as regards to amount of Rs.1582.58 crores noted by the Tribunal in para 14 at page 15, the amount should be read as **Rs.1582.98** crores.

6. As regards to second mistake in assessment year 2017-18, the Id.counsel drew our attention to para 23.2 of the Tribunal order at pages 44 & 45 and pointed out that the matter is restored back to the file of the CIT(A) instead of AO, as argued by Id.counsel during the course of hearing. But the Bench has taken a conscious decision and sent back to CIT(A) and hence, we infer no mistake apparent from record in the order of Tribunal and hence, to this extent of Tribunal order stands and this point raised by assessee in this miscellaneous application is dismissed.

7. As regards the miscellaneous application in MA No.63/CHNY/2024 for the assessment year 2018-19, the assessee raised the issue that the Tribunal has not adjudicated the addition grounds raised pertaining to

- i) Considering of income as per 143(1)(a) of the Act and
- ii) addition to book profit relating to URR, even though no amount have been debited to Profit & Loss account.

The Id.counsel drew our attention to additional grounds raised and filed on 29.04.2024. We noted that the following are the additional grounds:-

ADDITIONAL GROUNDS OF APPEAL

1. The Commissioner of Income Tax (Appeals) (CIT(A)) erred in not adjudicating the following issues raised by the Appellant:

- a) that the Assessing Officer (AO) had not considered the objections of the Appellant with respect to the additions/disallowances proposed u/s 143(1)(a) of the Act in the assessment order passed u/s 143(3) of the Act, eventhough, he (the AO) had in the order u/s 143(3) of the Act while computing the income assessed included the adjustments proposed in the intimation u/s 143(1)(a) of the Act.*
- b) the addition of Rs. 470,51,72,227/- made to the Book Profits u/s 11538 of the Act relating to Reserve for Unexpired Risk by the AO eventhough no amount had been debited to the Profit & Loss Account but there was only a credit (reversal) to the Profit and Loss Account of a similar amount*

2. The Appellant therefore prays that the above additions/adjustments be deleted.

7.1 We have gone through the order of the Tribunal and noted that the Tribunal has not adjudicated these two additional grounds and hence, to that extent we recall the order of the Tribunal and direct the Registry to fix this appeal for the assessment year 2018-19 in ITA No.1108/CHNY/2022 for hearing.

8. At the time of hearing, the Id.counsel for the assessee stated that he is withdrawing the miscellaneous application in MA No.62/CHNY/2024 for the assessment year 2019-20 for which, the

Id.Senior DR has not objected. Hence, the same is dismissed as withdrawn.

9. In the result, the miscellaneous applications of the assessee in M.A. Nos. 61, 67, 66, 65 & 63 /CHNY/2024 are allowed, MA No.64/CHNY/2024 is partly-allowed and MA No.62/CHNY/2024 is dismissed.

Order pronounced in the open court on 28th August, 2024 at Chennai.

Sd/-
(महावीर सिंह)
(MAHAVIR SINGH)
उपाध्यक्ष /VICE PRESIDENT

Sd/-
(अमिताभ शुक्ला)
(AMITABH SHUKLA)
लेखा सदस्य/ACCOUNTANT MEMBER

चेन्नई/Chennai,
दिनांक/Dated, the 28th August, 2024

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Applicant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त /CIT, Chennai
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF.