

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'C' BENCH  
MUMBAI**

**BEFORE: SHRI BR BASKARAN, ACCOUNTANT MEMBER  
&  
SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER**

**ITA No. 3430/MUM/2023  
(Assessment Year : 2012-13)**

Dy. Commissioner of Income Tax-3(4) Room No. 559, 5 <sup>th</sup> Floor, M.K.Road, Aaykar Bhavan, Mumbai-400020.	Vs.	IDBI Bank Limited, IDBI Tower World Trade Complex, 22 <sup>nd</sup> Floor, Taxation Cell Cuffe Parade, Mumbai-400005.
<b>PAN/GIR No. AABCI8842G</b>		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

Assessee by	Shri. C. Naresh
Revenue by	MS. Madhu Malati Ghosh (CIT-DR) & Shri. H.M. Bhatt, (Sr. DR)
<b>Date of Hearing</b>	<b>19/06/2024</b>
<b>Date of Pronouncement</b>	<b>06/09/2024</b>

**आदेश / O R D E R**

**PER SUNIL KUMAR SINGH (J.M):**

1. This appeal has been preferred against the impugned order dated 03.08.2023 passed in Appeal no. CIT(A) 1, MUMBAI/10804/2018-19 by the Ld. Commissioner of Income-tax(Appeals)/ National Faceless Appeal Centre (NFAC) [hereinafter referred to as the "CIT(A)"] u/s. 250 of the Income-tax Act, 1961 [hereinafter referred to as "Act"] for the

Assessment year [A.Y.] 2012-13, wherein learned CIT(A) has partly allowed assessee's appeal against the assessment order dated 25.12.2018.

2. According to the factual background of this case, assessee filed its return of income for A.Y. 2012-13 online on 26.09.2012, declaring income of Rs. 31,22,07,44,638/- under normal provisions of the Act and Rs. 36,94,52,39,137/- u/s. 115JB of the Act. Order u/s. 143(3) of the Act dated 22.01.2015 was passed and income of Rs. 33,13,47,80,155/- was assessed under normal provisions of the Act and Rs. 38,84,77,25,409/- was assessed as book profit u/s. 115JB. Subsequently order u/s.143(3) r/w order u/s. 263 of the Act dated 23.06.2017 r/w order u/s. 154 of the Act dated 11.05.2018 was passed and income was assessed at Rs 34,75,41,77,400/- under normal provisions of the Act and book profit at Rs. 38,84,77,25,409/- u/s. 115JB of the Act.

3. Learned assessing officer, after taking into consideration the directions of various appellate orders, tabulated as under and

disallowed expenses amounting to Rs. 58,25,41,577/- u/s. 40(a)(ia) and Rs. 1,04,245/- on account of depreciation on leased assets. Finally assessed the income at Rs. 32,69,67,68,775/- under normal provisions of the Act as the tax liability as against the revised book profit of Rs. 38,66,07,12,141/- u/s. 115JB of the Act, was found to be more under normal provisions of the Act.

No	Court of Appeal	Order Date	Appeal No	Order appealed against
1	ITAT	11/09/2017	ITA/3775/MUM/2017	Order u/s 263 of the Act dated 27/03/2017 passed by CIT(LTU), Mumbai
2	CIT(A)	28/09/2018	CIT(A)-1/ACIT(LTU)-2/IT-136/2016-17	Order u/s 143(3) rws 263 dated 23/06/2017 passed by ACIT(LTU)-2, Mumbai
3	CIT(A)	23/01/2018	CIT(A)-2/IT-24/2017-18	Order u/s 143(3) of the Act dated 22/01/2015

4. Aggrieved by the assessment order, assessee preferred an appeal before learned CIT(A), who partly allowed first appeal by deleting the disallowance of expenses u/s. 40(a)(ia) amounting to Rs 58,25,41,577/- and disallowance of Rs. 1,04,245/- on account of depreciation on leased assets, further directing the assessing officer to verify the claim of assessee for grant of tax paid.

5. Aggrieved by the impugned order passed by learned CIT(A), this second appeal has been filed by the revenue on the following ground:

*“Whether on the facts and in circumstances of the case and in law, the learned CIT(A) is justified in allowing the relief without appreciating the facts that the assessee failed to furnish documentary evidence before the Assessing Officer in support of its claim during the set aside proceedings.”*

6. In response to the notice issued by the tribunal, learned DR appeared and participated in the hearing.

7. We have perused the records and heard learned representatives for both the parties.

8. The main point for consideration under appeal is as to whether in the facts and circumstances of the case, learned CIT(A) was justified in granting claimed relief to the assessee?

9. Learned DR has argued that the assessee did not submit the relevant documents before assessing officer in respect of TDS deduction for the year under consideration in compliance of direction of Hon’ble ITAT. Hence, learned CIT(A) was not justified in allowing the claimed relief to assessee. Prayed to set aside the impugned order.

10. Learned representative for the assessee has submitted that Hon’ble ITAT, vide order dated 11.09.2017 passed in ITA

3775/MUM/2017 specifically directed assessing officer to verify whether the assessee has duly deducted the TDS on the sum of Rs. 58,25,41,577/- claimed by the assessee and paid the same before the due date of filing of the return. Assessee further submitted that since the data was voluminous and huge, only sample data of TDS certificates was furnished, covering about 54% of the total amount. However, assessing officer did not grant relief on the ground that evidence was given only for Rs. 31.57 crores as against the total amount of Rs. 58.25 crores. Assessee has further submitted that learned assessing officer erringly disallowed the depreciation on leased asset amounting to Rs. 1,04,245/- u/s. 32 of the Act which was rightly allowed by learned CIT(A). Assessee has vehemently supported the impugned order and prayed to dismiss the revenue's appeal.

11. We find that learned CIT(A) has with precision and unambiguously passed speaking impugned order. The relevant para no. 4.3, 4.7, 4.9 of the impugned order read as under:

*“4.3 In view of the above facts and submission made by the appellant, I find force in the contention of the appellant. Appellant has discharged its liability and submitted the relevant document in respect of TDS deduction for the year under consideration*

*as per letter submitted before the AO by following the direction of Hon'ble ITAT. From the assessment order it appears that no further details were asked by the AO before denying the claim of the appellant. Otherwise also appellant has furnished the TDS certificates amounting to Rs. 31,57,03,761/- pertaining to the relevant assessment year out of total provision of expense of Rs. 58,25,41,577/-. Therefore, before disallowing the whole amount, AO would have pointed specific default in the TDS certificate submitted and asked for further details. Appellant has uploaded the relevant details during the course of appellate proceedings. Therefore, considering the observation of the Hon'ble ITAT and submission made by the appellant, I am of the view that disallowance of expenses made by the AO u/s 40(a)(ia) amounting to 58,25,41,577/- is not sustainable. AO is directed to delete the addition of Rs. 58,25,41,577/- made on account of disallowance of provision for expenses. Thus, Ground no. 2 of the appeal raised is allowed.*

*4.7 I have carefully gone through the assessment order, grounds of appeal, statement of facts and written submission uploaded by the appellant. The order of the Ld. CIT(Appeal) on the issue is unambiguous, unconditional and clear. The claim of the appellant in respect of depreciation on leased asset has been allowed by the Ld. CIT(Appeal). Therefore, I find no justification on the part of the AO to disallow the depreciation while giving the appeal effect order on the ground that the detail in respect of lease asset was not provided. Thus, Ground no. 3 of the appeal raised is allowed.*

*4.9 Having considered the above facts, submission of the appellant as well as grounds of appeal, I am of the view that this ground requires verification of record. Hence, the A.O. is hereby directed to verify the claim of the assessee for tax paid and after due verification, if the same is found to be correct then allow the same to the appellant. During verification process, proper opportunities for being heard are to be given to the appellant. Thus, the ground no. 4 of appeal raised is partly allowed.”*

12. We notice that during the first appellate proceedings appellant assessee uploaded the relevant details in respect of TDS deduction for the year under consideration. The claim of appellant with regard to the depreciation on leased asset was rightly allowed in accordance with order of learned CIT(A) passed in the first round of the litigation as shown in above stated table at para 3 of this order. We also do not find any fault or infirmity in the direction for verification of assessee's claim for tax paid. The impugned order is thus, sustainable

under law. The aforesaid point is accordingly determined against the revenue and in favour of the assessee.

13. In the result, the appeal is dismissed. Impugned order dated 03.08.2023 is sustained.

Order pronounced on 06.09.2024.

**Sd/-**  
**(BR BASKARAN)**

**ACCOUNTANT MEMBER**

Mumbai; Dated 06/09/2024

Anandi Nambi, *Steno*

**Copy of the Order forwarded to:**

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

**Sd/-**  
**(SUNIL KUMAR SINGH)**  
**JUDICIAL MEMBER**

BY ORDER,

(Asstt. Registrar)  
**ITAT, Mumbai**