

**IN THE INCOME TAX APPELLATE TRIBUNAL
“C” BENCH : BANGALORE**

BEFORE SHRI PRASHANT MAHARISHI, VICE PRESIDENT
AND
SHRI KESHAV DUBEY, JUDICIAL MEMBER

ITA No. 426/Bang/2023
Assessment year : 2017-18

Bangalore Electricity Supply Company Ltd., BESCOM Corporate Office, Block A K R Circle, Bangalore – 560 001. PAN: AACCB 1412G	Vs.	The Assistant Commissioner of Income Tax, Circle 1(1)(2), Bangalore.
APPELLANT		RESPONDENT

ITA No. 710/Bang/2023
Assessment year : 2017-18

The Deputy Commissioner of Income Tax, Circle 1(1)(1), Bangalore.	Vs.	Bangalore Electricity Supply Company Ltd., Bangalore PAN: AACCB 1412G
APPELLANT		RESPONDENT

Assessee by	:	Shri S. Annamalai & Joseph Varghese, Advocates.
Revenue by	:	Ms. Neera Malhotra, CIT(DR)(ITAT), Bengaluru.

Date of hearing	:	14.11.2024
Date of Pronouncement	:	06.01.2025

ORDER

Per Prashant Maharishi, Vice President

1. An appeal in ITA No.426/Bang/2023 is filed by Bangalore Electricity Supply Company Ltd. (the assessee/appellant) for the assessment year 2017-18 against appellate order passed by the National Faceless Appeal Centre, Delhi (NFAC) [Id. CIT(Appeals)] dated 29.03.2023 wherein the appeal filed by assessee against the assessment order passed by ACIT, Circle 1(1)(2), Bangalore (the Id. AO) dated 30.12.2019, u/s. 143(3) of the Income-tax Act, 1961 (the Act) determining total income of assessee at normal computation at Rs. 190,03,50,556/- and computation of book profit at Rs. 187,98,18,404/- u/s. 115JB of the Act against the returned loss of Rs. 234,97,58,500/- and book profit of Rs. 84,77,18,404/-, was partly allowed.
2. The Id. AO is also aggrieved with the same appellate order and has also filed appeal in ITA No. 710/Bang/2023.
3. The assessee has raised the following 29 grounds of appeal :-

“1. The order of the National Faceless Appeal Centre/learned Commissioner of Income tax (Appeals) passed under Section 250 of the Act in so far as it is against the Appellant is opposed to law, weight of evidence, probabilities, facts and circumstances of the Appellant's case.

Grounds in respect of confirming the disallowance of provision amounting to Rs. 86.66 Crores:

2. The learned Commissioner of Income-tax (Appeals) is not justified in law confirming the disallowance of provision made by the learned Assessing Officer in respect of materials not returned a sum of Rs. 0.23 crores, amount written off relating to excess balance in Indus

Ind Bank a sum of Rs. 0.14 crores and amount written off recoverable from ex-employees- materials not returned/excess material drawn a sum of Rs. 0.22 crores on the facts and circumstances of the case.

3. The learned Commissioner of Income-tax (Appeals) is not justified in law in confirming the disallowance a sum of Rs. 83.59 crores in respect of amount written off in relation to excess amount of debtors relating to trade receivables on the facts and circumstances of the case.

4. The learned Commissioner of Income-tax (Appeals) has erred in observing that the appellant claims that the disputed amount of Rs. 83.59 crores has been reduced from the gross sundry debtor receivable account stands un-reconciled since the amount reduced from sundry debtors actually amounts to Rs. 1175.66 crores on the facts and circumstances of the case.

5. The learned Commissioner of Income-tax (Appeals) is not justified in law in observing that the figure of Rs. 1175.66 crore has not been reconciled with the claim of various expenses being debited in the Profit and Loss Account (Note No. 2.35-Other expenses)-provision against receivables of Rs. 103.21 crores which also includes the above impugned amount a sum of Rs. 83.58 crores on the facts and circumstances of the case.

6. The learned Commissioner of Income-tax (Appeals) is not justified in law and on facts in observing that no proper linkage of the same has been made with the provision for doubtful debts account as appears in the balance sheet and the consequent accounting entries have not been properly explained on the facts and circumstances the case.

7. The learned Commissioner of Income-tax (Appeals) has failed to appreciate the entire written submissions filed by the appellant in respect of disallowance by Assessing officer a sum of Rs. 86.07 crores on the facts and circumstances of the case.

8. The learned Commissioner of Income-tax (Appeals) has failed to appreciate that the appellant has provided all available explanations and details to discharge the onus of the appellant in respect of claim a sum of Rs. 86.07 crores (83.59 + 2.21 + 0.27) on the facts and circumstances of the case.

9. The learned Commissioner of Income-tax (Appeals) is not justified in law in confirming the disallowance a sum of Rs. 2.21 crores in respect of amount written off consisting of advance given to employees on the facts and circumstances of the case.
10. The learned Commissioner of Income-tax (Appeals) is not justified in law in confirming the disallowance a sum of Rs. 0.27 crores in respect of amount written off consisting of materials issued to personnel and not returned on the facts and circumstances case.
11. The learned Commissioner of Income-tax (Appeals) is not justified in law in holding that in the absence of specific identity of debtors (consumers whose bills are unpaid) it is not possible to closed such accounts of debtors which is also a necessary condition to prove that the account has been irreversibly closed.
12. The learned Commissioner of Income-tax (Appeals) is not justified in law in holding that the yardsticks laid down in the decision of the Hon'ble Supreme Court in POT v. Khyati Realtors Pvt. Ltd, (2022) 447 ITR 167 (SC) have not been satisfied on the facts and circumstances of the case.
13. The learned Commissioner of Income-tax (Appeals) is not justified in law in holding that the claim of a sum of Rs, 83.58 crores has been rightly disallowed by the Assessing officer under normal computation on the facts and circumstances of the case.
14. The learned Commissioner of Income-tax (Appeals) has erred in observing that the advance is in respect of advances given to various parties and not advances given to employees on the facts and circumstances of the case.
15. The learned Commissioner of Income-tax (Appeals) is not justified in law in holding that the decisions relied upon by the appellant are not applicable to the facts and circumstances of the appellant's case.
16. The learned Commissioner of Income-tax (Appeals) erred in observing that a sum of Rs. 2.25 crores in respect of excesses/shortages found on physical verification of inventories which is pending final investigation has a bearing on advances given to employees and written off a sum of Rs. 2.48 crores on the facts and circumstances of the case.

17. The learned Commissioner of Income-tax (Appeals) is not justified in law in holding that the amounts written off consisting of materials issued to personnel and not returned have not been justified by the appellant and the advances given to employees totalling to Rs. 2.48 Crores (Rs. 2.21 crores 0.27 crores) has been rightly disallowed by the Assessing officer on the facts and circumstances of the case.

Ground relating to Computation under section 115JB of the Act:

18. The learned Commissioner of Income-tax (Appeals) erred in law in holding that the appellant is liable to file Form 29B for the impugned Assessment Year 2017-18 on the facts and circumstances of the case.

19. The learned Commissioner of Income-tax (Appeals) is not justified in law in holding that on applicability of the provisions of section 115JB of the Act the onus of the appellant has not been discharged on the facts and circumstances of the case.

20. The learned Commissioner of Income-tax (Appeals) erred in law in holding that, on perusal of the ITR filed by the Appellant, there is no carried forward business loss without appreciating the fact that the figures arrived in the said ITR were as per the Income-Tax, 1961 on the facts and circumstances of the case.

21. The learned Commissioner of Income-tax (Appeals) ought to have directed the learned Assessing Officer to provide the Appellant with the deduction of the lower of the carried forward business loss or unabsorbed depreciation as per the books of accounts of the Appellant prepared in accordance with the provisions of Companies Act, 2013 on the facts and circumstances of the case.

22. The learned Commissioner of Income-tax (Appeals) is not justified in law in confirming the provisions to the extent a sum of Rs.86.07 crores (83.59 crores +2.21 crores+0.27 crores) for making addition to computation of book profit under section 115JB of the Act on the facts and circumstances of the case.

23. The learned Commissioner of Income-tax (Appeals) is not justified in law in arriving a finding that the appellant does not satisfy the requirement of actual write off in respect of a sum of Rs. 86.07 crores (83.59 crores +2.21 crores+0.27 crores) and consequently

addition under clause (i) to Explanation 1 of section 115JB of the Act holds good on the facts and circumstances of the case.

24. The learned Commissioner of Income-tax (Appeals) failed to appreciate that the learned Assessing Officer erred in adding the provision for receivable when the same was reduced from sundry debtors in the asset side the provision no longer an unascertained liability on the facts and circumstances of the case.

25. The learned Commissioner of Income-tax (Appeals) failed to appreciate that the learned Assessing officer erred in making the addition when the provision for receivable not shown in the liability of the Balance sheet and reduced from the debtors there is no requirement to add the same in the computation of income under section 115JB of the Act on the facts and circumstances of the case.

Without prejudice ground on finding in respect of the addition made under section 41(1) read with section 28(iv) of the Act

26. Without prejudice to the deletion of addition made under section 41(1) read with section 28(iv) of the Act by the learned Assessing Officer, the learned Commissioner of Income-tax (Appeals) is not justified in law in holding that, it is not only the assessee who can decide when the liability is to be written back and the disallowance/addition u/s 41 of the Act can be made by the Assessing officer as well, on the facts and circumstances of the case.

Ground on interest levied u/s 234B of the Act:

27. The learned Assessing Officer is erred in levying the interest under section 234B of the Act and further calculation of interest under section 234B of the Act is not in accordance with the said provisions of the Act since the rate and method of calculation is not discernable from the assessment order and computation sheet on the facts and circumstances of the case.

28. The Appellant craves leave to add, alter, amend, substitute or delete any or all of the grounds of appeal urged above.

29. For the above and other grounds to be urged during the course of hearing of the appeal the Appellant prays that the appeal be allowed in the interest of equity and justice.”

4. The ld. AO has raised following two grounds: -

“(i) The Ld. CIT(A) erred in law and on facts in deleting the addition made u/s. 37 of the Income Tax Act, 1961 amounting to Rs. 32,19,00,000/-.

(ii) The Ld. CIT(A) erred in law and on facts, in deleting the addition of 5% of sundry creditors payable toward power purchase suppliers and work and for expenses as cessation of liability u/s.41(1) r.w.s.28(iv) of the LT. Act amounting to Rs. 225,07,30,000/-.”

5. Brief facts of the case show that assessee is a company incorporated on 30.4.2002 in pursuance of scheme framed by Karnataka Govt. for electricity requirements for distribution of power. Therefore, assessee company took over the assets & liabilities on 1.6.2002 for distribution of electricity in 8 districts. Assessee is thus a DISCOM wholly owned by Govt. of Karnataka.
6. Assessee filed its return of income on 30.10.2017 at a loss of Rs. 232,87,679/- as per normal computation and computed book profit u/s. 115JB of the Act, at a book profit of Rs. 84,77,18,404/-. This return was subsequently revised on 26.3.2018 at a loss of Rs. 234,97,58,500/- and book profit was also changed to a book loss of Rs. 258,17,47,490/-.
7. This return was picked up for scrutiny by issue of notice u/s. 143(2) & 142(1) on 30.4.2019. On the various issues arising in the assessment order, a show cause notice was issued on 09.12.2019 which was replied to on 10.12.2019. After considering explanation, ld. AO made addition to normal income of assessee to the extent of Rs. 425,01,09,066/- on 5 different issues. Further, the computation of book loss claimed by

assessee of Rs. 103.21 crores was also added back to book profit. The claim of book loss of Rs. 342/- crores was also not allowed as the assessee has not filed Form 29B of the Act.

8. Assessment order dated 30.12.2019 was challenged before the Id. CIT(A). The Id. CIT(A) partly allowed the claim of assessee and therefore both the parties are aggrieved and challenge it before us.
9. Before us, assessee has submitted voluminous paper books in five volumes, a case law compilation, and an application for admission of additional evidence. Assessee has also submitted written note on the appeal of assessee as well as appeal of Id. AO. We have carefully considered the relevant documents cited before us as well as considered the relevant judicial precedents applicable to the facts of the case.
10. We first take up the appeal of the Id. AO wherein in the 1st ground, the addition deleted by the Id. CIT(A) of Rs. 32.19 crores is under challenge. The facts relating to this ground show that the Id. AO noted that assessee has claimed contract expenditure of Rs. 115,76 crores, conveyance & travel expenditure of Rs. 45.19 crores, totalling to Rs. 160.95 crores. Assessee was asked to furnish the details of claim. Assessee submitted that all these expenses are incurred with respect to different units and therefore complete year-wise details are not furnished. The Id. AO noted that assessee is receiving grants and subsidy from the Govt. and further it is for assessee to maintain proper records and to submit the same for verification, as the onus is on the assessee that expenditure incurred was genuine and allowable. The AO

noted that assessee company is in news for bogus contracts and also on making higher contract payments for buying electricity at higher prices. The Id. AO even in the show cause notice asked the assessee that why 20% of such expenditure should not be disallowed, if assessee fails to prove its allowability. In response to this, assessee filed area-wise list of contract remuneration. For legal and professional fees, assessee could not file the complete details because same were voluminous and available at the unit level. The Id. AO held that onus is on the assessee to prove the genuineness of the transaction and in this case for contract remuneration assessee did not even furnish tender, contract agreement, copies of the details of expenses. Therefore, considering the PSU status of turnover of assessee, he held that contract and travel expenditure is very high and raises suspicion on the payments. Therefore, relying on the decision of Hon'ble Supreme Court in the case of Sri Laxminarayana Madan Lal v. CIT, 56 ITR 439 (SC), he disallowed 20% of the above expenditure of Rs. 31.19 crores.

11. Assessee contested disallowance before the Id. CIT(A) and referred to details of unit-wise list of payments made to contractor and reply to various show cause notices. Assessee also made an application of additional evidences which were admitted and thereafter those were adjudicated on test check basis. The Id. CIT(A) deleted the addition after all the evidences were forwarded to the AO and waiting for his remand report, which was not submitted. The reasons for deletion of above disallowance is mentioned as per para 8 of his appellate order. The Id. AO is aggrieved.

12. The Id. DR vehemently submitted that assessee, despite being a public sector undertaking and receiving substantial finance by subsidy by Govt., did not furnish the complete details. The Id. AO has given detailed reason that there is allegation of higher expenditure booked by assessee and so the genuineness of the expenditure of contract payment was in doubt. Assessee did not produce the complete details and therefore the Id. AO disallowed 20% of the expenditure. The Id. CIT(A) is not correct in deleting the same.
13. The Id. AR supported the order of the Id. CIT(A) and submitted that assessee furnished complete details before the Id. CIT(A) and after verification of those details, when remand report of the AO was not submitted, he deleted the ad hoc disallowance. He further referred to the facts submitted before the Id. AO that assessee is a DISCOM based at various units at different places, therefore collecting the details from each of the units was not possible and so could not be made available before the AO, but submitted before the Id. CIT(A), which was checked and thereafter disallowance was deleted.
14. We have carefully considered the rival contentions and perused the orders of Id. Lower authorities. In this case the facts clearly show that assessee has incurred contract expenditure of Rs. 115.76 crores and conveyance & travel expenditure of Rs. 45.19 crores. The assessee could not furnish the details in its completeness before the Id. AO, therefore the Id. AO disallowed 20% of the expenses u/s. 37 of the Act. The reasons given by the Id. AO show that considering the PSU status

and turnover of assessee, the claimed expenses are very high and raises suspicion on the payment. He also referred to the allegation of bogus expenditure. It is also an admitted fact that assessee could not produce the complete details as desired by the Id. AO stating that details are voluminous and are available at the unit level. Before the Id. CIT(A), assessee submitted additional evidences which were admitted for the reason that during the short span of time it was not possible to collect the invoices and other details from all the branches and units. The Id. CIT(A) forwarded all these details to the jurisdictional AO for submission of remand report, even after considerable time, the Id. AO did not submit remand report. Therefore the Id. CIT(A) admitted additional evidences, verified the same on test check basis and deleted the disallowance. It is not the case of the Id. DR even now that details submitted by the assessee before the Id. CIT (A), which were sent to Id. AO for submission of remand report were not complete and proper. Therefore, we do not find any infirmity in the order of the Id. CIT–A in deleting the above disallowance. Accordingly ground number 1 of the appeal is dismissed.

15. Ground number 2 of the appeal is with respect to deleting the addition of 5% of sundry creditors payable towards purchase suppliers and work and for expenses as a cessation of liability under section 41 (1) read with section 28 (iv) of the act amounting to Rs. 225,07,30,000/-. The learned assessing officer has as per the annual report found that the assessee has total liability of Rs. 4953.53 crores. Out of that a sum of Rs. 452.07 crores are related to other distribution companies. Balance of Rs.

4501.46 crores were inquired by the learned assessing officer with respect to the cessation of any liability. The assessee submitted a copy of unit-wise creditors and payables for supplies. It was stated that it is not feasible to provide the creditor wise details as the details are voluminous and would not be available at the corporate office level. The learned assessing officer was not satisfied with the explanation and stated that assessee should have furnished Bangalore office details at least. Same was also not furnished. He further noted on examination of the creditor details that many of the creditors were either contract payment or electricity purchase payments. It is also in news for having contracts for paying more than regulated prices for buying electricity. AO noted that assessee sign contract for buying electricity at higher prices but same is not paid to customers. However, these are bogus expenses, as assessee is bound by KERC rates. It was noted by him that this is one of the issues on the side of the liability. And there may be many such issues. As assessee failed to provide all the details, the learned that AO presumed that some expenses are ceased to exist for the year under consideration and therefore he invoked the provisions of section 41 (1) of the Act. The learned AO further relied upon several judicial precedents and held that as assessee has provided unit -wise information and the assessee has kept centralised payments and no proper books are maintained at the head office level, therefore considering several judicial precedents the liability of 5% of the total sundry creditors were considered as liability ceased to exist, chargeable to tax under section 41 (1) read with section

28 (iv) of the act. Therefore, the addition of Rs. 2,250,730,000/- was made to the total income.

16. Assessee preferred an appeal before the learned CIT-A on this issue as per ground number 7 – 9. The learned CIT-A noted that assessee is a state government public sector undertaking whose books of accounts are audited by the statutory auditor, tax auditor as well as conducted by the controller and auditor general of India besides, the annual report of the assessee also reflects the observations of the auditor which demonstrate that the accounts are subject to verification at different levels. Therefore, it is not a case of non-maintenance of Proper books of accounts by the assessee which appeared to the assessing officer in view of the failure of the assessee to submit details in limited time available in this regard. It was pointed out that no specific instances of cessation of liability have been highlighted by the assessing officer. Therefore, some additional evidence in the form of complete set of the details were filed before the learned CIT-A, which have been admitted and therefore forwarded to the assessing officer for his comments. Substantial time passed but remand report was not received and therefore the learned CIT-A proceeded to examine the issue on the merits of the case. The learned CIT-A computed the breakup of liability doubted by the learned assessing officer which comprises of Rs. 3912.82 crores and sundry creditors for purchase of power, creditors for supply of works etc of Rs. 498.53 crores and outstanding expenses of Rs. 90.11 crore. The assessee also submitted a breakup of creditors for purchase of power as well as the other information. The learned CIT-A in paragraph number 9.4 has

discussed the allegation of the learned assessing officer appearing in certain newspaper reports regarding power purchases at higher rates. The learned CIT-A rejected the stand of the AO that the payments made to power producer at a higher rate is one of the reasons for subsequent cessation of liability. The learned CIT appeal further examined all the amounts of sundry creditors and further noted that assessee has claimed to have made payments to the creditors in subsequent years to prove the existence and validity of creditors appearing as on the last day of the balance sheet for the impugned assessment year. He further examined the breakup of existing liability and some payment made to these creditors in subsequent years. Thus, he noted that in absence of any specific liability having ceased being pointed out by the assessing officer, it is not correct to make disallowance on account of cessation of liability on estimated basis of a huge amount of around Rs. 225 crores. He further considered the various judicial precedents cited by the learned assessing officer and held that those are not applicable in the facts of the assessee. Therefore, he held that the disallowance/addition made by the learned assessing officer of Rs. 2,250,730,000 made under section 41 (1) read with section 28 (iv) of the act is not sustainable and hence the addition was deleted.

17. The learned assessing officer aggrieved with that is in appeal. The learned CIT DR vehemently supported the finding of the learned assessing officer stating that when the information is not furnished by the assessee, there is no option left with the learned assessing officer but

to make an addition under section 28 (iv) or under section 41 (1) of the Act.

18. The learned authorised representative relied upon the order of the learned CIT–A. It was further stated that the provisions of section 41 (1) of the act or section 28 (iv) of the act does not apply to the facts of the case as none of the liability has ceased to exist. He further referred to the order of the learned CIT–A, he has examined in detail the amount of subsequent payment made to those creditors. Therefore, it was submitted that the order of the learned CIT–A does not suffer from any infirmity.
19. We have carefully considered the rival contention and perused the orders of the learned lower authorities. The issue involved in this ground of appeal is that when the assessee has failed to furnish the complete details of the sundry creditors to the assessing officer stating it to be voluminous in nature, the learned assessing officer on his examination that assessee has failed maintain proper books of accounts, can result in to any addition u/s 41(1) of the Act. It was further stated that as the assessee has huge liability outstanding, he estimated 5% thereof as a liability ceased to exist and therefore chargeable to tax under section 41 (1) of the act. Before the learned CIT–A assessee furnished certain additional evidence. This additional evidence was forwarded to the learned assessing officer for his comments. Even after substantial lapse of time, the learned assessing officer did not submit his remand report on this issue. Thereafter the learned CIT–A examined the details himself. He found that the number of creditors outstanding at the end of the year

are shown in the books of accounts of the assessee. In subsequent year, on sample basis, he verified that the payments have been made to these parties. Therefore, when the payments have been made to the sundry creditors which were outstanding on the last day of the accounting period, in subsequent accounting year, there cannot be any cessation of liability to that extent. The learned CIT-A further dealt with the doubt expressed by the learned assessing officer about the irregularity in sundry creditors and held that such doubt was unfounded. In paragraph number 9.5, he dealt with major creditors outstanding and how they have been dealt with in the books of accounts subsequently with respect to the payment. Therefore, he held that when the assessee has claimed to have made payments to the creditors in subsequent years, the fact of the outstanding liability in existence as on 31/3/2017 cannot be denied. He further held that the learned assessing officer has not pointed out any instance of any liability ceasing to exist out of the huge sum. He also rejected the criteria applied of 5% to make an addition to the total income of the assessee. In fact, according to the provisions of section 41 (1), there is no scope for any estimation of income, whatever liability has ceased to exist becomes the income of the assessee. Therefore, natural corollary would be that the amount of addition under section 41(1) cannot be made on ad hoc basis. The learned assessing officer has applied five percentage of the total liability outstanding in the books of the assessee and held that it has ceased to exist and therefore chargeable to tax under section 41 (1) of the Act. On reading of the provisions under section 41 (1) of the Act any ad hoc addition is not warranted. It must be

the actual liability which has ceased to exist, is chargeable to tax in the hands of the assessee. Therefore, we do not find any infirmity in the order of the learned CIT-A in dealing with the additional evidences filed by the assessee, which were sent for remand report to the assessing officer but for substantial time no such remand report was submitted, and therefore on examination by the learned CIT-A, he has reached at a conclusion that the liability is stated by the assessee as on 31/3/2017 is in existence and has not ceased and therefore not chargeable to tax under section 41 (1) of the act. Accordingly, we dismiss ground number 2 of the appeal of the learned AO.

20. In the result appeal filed by the learned assessing officer is dismissed.
21. Now we proceed to decide the appeal of Assessee.
22. Ground number 1 of the appeal is general in nature, no specific arguments were advanced, therefore, it was not pressed, hence dismissed.
23. Ground number 2 – 17 is with respect to confirmation of the disallowance of provision of amounting to Rs. 86.66 crores. However, in the grounds, assessee has challenged addition to the extent of ₹ 1.49 crores as per ground number 2, ₹ 83.59 crores as per ground number 3 – 4, as per ground number 8 it challenges the disallowance in respect of ₹ 86.07 crores comprising three amounts (1) 83.59 crores, (2) Rs 2.21 crores and (3) ₹ 0.27 crores. As per ground number 9 it individually refers to disallowance of sum of Rs 2.21 crores and in ground number 10

it refers to the disallowance of sum of ₹ 0.27 crores. Further in ground number 13 it also refers to the addition of ₹ 83.58 crores which were also referred to in ground number 5 of the appeal. In ground number 16 the assessee refers the disallowance of Rs 2.25 crores and Rs. 2.48 crores which is once again comprising of the sum of Rs 2 .21 crores and ₹ 0.27 crores already referred to in ground number eight. Therefore, there are many overlapping sums in the grounds of appeal as far as the number of addition/disallowances are confirmed and agitated.

24. The brief facts of the case and discussed by the learned assessing officer in paragraph number 4.5 of the assessment order wherein it was found that as per the computation of total income they assessee has not added back the provisions created in the profit and loss account. According to the learned assessing officer same should have also been added back in the minimum alternative tax computation. Accordingly, the assessee was issued a show cause notice that why the same should not be disallowed under section 37 holding it to be a contingent liability. The assessee's reply was that provisions debited to the profit and loss account are not in the nature of contingent liability and it is the liability that has accrued as on the date of closing the books of accounts which are paid in subsequent years, therefore there is no requirement to add the provisions back in the computation and in MAT computation. The learned assessing officer considered the explanation of the assessee and held that if the amount has been paid in subsequent years, the assessee should have furnished such evidence of actual payment, which are not furnished. He further referred to note number 2.35 of the annual report

wherein such liabilities are tabulated. The liabilities are of Rs. 0.59 crores relating to the provision against ex-employee receivable, Rs. 103.21 crores being provision against receivable, being Rs. 9.70 crores being material cost variance and Rs. 2.29 crores being miscellaneous losses and write off including provisions. This totals to Rs. 115.79 crores. The learned assessing officer noted that expenses like material cost variance and other expenses provision does not have any evidence that that for which are this expenditure claimed. The assessee statement does not hold any good and assessee should have provided complete information/ details. In the absence of evidence, the learned AO considered the provision of Rs. 115.79 crores as contingent liability and disallowed the same.

25. Before the learned CIT – A, the issue was agitated as per ground number 10 – 12 of the appeal the learned CIT appeal noted that that the assessee has maintained provision for bad and doubtful debts amounting to Rs. 83.59 crores being 4% of sundry debtors for low tension category customers and on high tension category customers. Further with respect to the areas of further division the provision is maintained for bad and doubtful debts at the rate of 75% for outstanding for more than 2 years. The learned CIT – A held that provision for bad and doubtful that is not an actual figure, but an estimated provision created as per the yardstick disclosed in annual report. He noted that out of the trade receivable, a sum of Rs. 1175.66 crores are termed as provision for bad and doubtful debt and reduced from the figure of the trade receivable. The assessee could not reconcile the amount of Rs. 1175.66 crores with the provision

made according to the policy of providing out of low-tension clients, high tension clients and other outstanding for more than 2 years with the amount of provision against receivable of Rs. 103.21 crores which also included the amount of Rs. 83.58 crores. He noted that the claim of Bad debts written off is separate amount of Rs. 0.63 crores which is also not reconciled with the provision for bad and doubtful debts. The learned CIT – A also noted the explanation of the assessee that assessee creates provisions for each year which is reversed in subsequent year and a fresh provision is made once again for the subsequent year which has resulted in the higher provision of Rs. 4.42 crores for the year ended on 31/3/2017. In view of the difference reconciled by the assessee, the learned CIT – A held that the onus lies on the assessee to show that the claim is correct and has not been claimed earlier as deduction. Further it was noted by him that assessee could not show the requirement of closure of the account of the debtor. The reason being that the details submitted by the assessee which are maintained division -wise and not consumer wise. Thus, he held that the assessee has not fulfilled the requirement of writing off/closure of the accounts of the consumer/customer. Further as the exercises been undertaken based on the report of internal audit, the amount pointed out by that internal audit report and amount provided by the assessee are quite different. The learned CIT – A also noted that the assessee could not show that the above amount of Rs 83.58 crores have been reduced from the debtors account and from the trade receivables. He noted that the figure reduced from trade receivable is Rs. 1175.66 crores which could not be reconciled with the

claim of bad debt written off by debiting to the profit and loss account. He further noted that in absence of specific identity of debtors, it is not possible to close such accounts of the debtors, which is also a necessary condition to prove that the accounts have been irreversibly closed. He further referred to the decision of honourable Supreme Court in the case of Khyati Realtors private limited.in SLP (civil) number 672 of 2020 dated 25/8/2022 and held that the conditions prescribed as per those decisions in the instant case have not been satisfied. Therefore, he upheld the disallowance of claim of provision against receivable of Rs. 83.58 crores.

26. Contesting the above disallowance, the learned authorised representative referred to written submission placed at page number 12 – 24 of the paper book. The main contention of the learned authorised representative is that the sum of ₹ 83.59 crores has been written off subsequent to the suggestion and observations of the audit conducted by the Comptroller and auditor general. This amount has been written off as a result of receivable due from consumers which continued in the books of accounts of the assessee. In the financial year 2016 – 17 the billing system was computerised, the receivable maintained manually were taken to consumers wise data in the system. Therefore the amount of receivable were debited to a distinctive account code subject to reconciliation with manual system. These amounts which have been debited in a particular account accrued to the assessee over the years and has already been considered as a revenue on which assessee has already paid a tax. The assessee reconciled the amount but ultimately ₹ 83.59

crores was identified as not reconciled. Subsequent to that, these amount was written off by debiting the profit and loss account and the corresponding asset was credited. The assessee has, in fact, credited the particular outstanding account shown in the books of account which was remaining unreconciled and consequent debit was made to the profit and loss account. Therefore according to the learned authorised representative the above sum is written off in the books of accounts of the assessee and therefore should have been allowed to the assessee as a bad debts. It was further stated that all the conditions mentioned under the provisions of the income tax act with respect to section 36 (2) and 36 (1) (vii) are completely satisfied. Therefore, the disallowance made by the learned lower authorities is not correct.

27. During hearing assessee has also submitted the additional evidence with respect to the copy of the backup of the amounts falling under the head trade receivable which are pending for reconciliation. These are merely the extract of the books of accounts of the assessee of the trade receivable, therefore those are also considered while deciding this ground. The learned departmental representative on this issue did not raise any objection.

28. The learned departmental representative vehemently supported the orders of the learned lower authorities and submitted that in absence of proper details of ₹ 83.59 crore submitted by the assessee, the bad debts cannot be allowed to the assessee. He extensively referred the order of the learned CIT – A wherein the disallowance was confirmed.

29. We have carefully considered the rival contention and perused the orders of the learned lower authorities. The only issue involved in this ground is with respect to allowability of bad debt claim of the assessee. The brief facts shows that in the financial year 2016 – 17 the billing system of the assessee was computerised. The receivable maintained manually were taken to consumer wise data into the system software. A sum of ₹ 231.70 crores at the end of the financial year 2016 – 17, ₹ 143.22 crores at the end of the financial year 2015 – 16 were also debited as receivable in a particular account code pending reconciliation with manual system. These amounts are undisputedly shown as receivable from customers. Therefore, it is apparent that these debits have arisen on account of charges raised by the assessee on those customers. Subsequently on audit, a query was raised by Comptroller and auditor general. Out of the above sum ₹ 231.70 crores was identified and reconciled with computerised system. A sum of ₹ 83.59 crores could not be identified and reconciled and therefore the above sum was written off by the assessee in its books of accounts as bad debts. The assessee has shown that amount as written off in the books of accounts. It has also been undisputed that the amount of ₹ 83.59 crores has arisen out of the amount receivable from customers which remained unreconciled on account of computerisation of the books of accounts of the assessee and migration of manual data to the computers. Therefore naturally, the above amount has been taken into the books of account of the assessee while computing the revenue of the assessee in the year in which the amount of bills is recorded as revenue and the amount of customers

account receivable is debited. Therefore, it also satisfies the provisions of section 36 (2) of the act. The learned CIT – A has disallowed only because in absence of specific identity of the debtors, it is not possible to close the account of such debtors and therefore the disallowance was made and confirmed. However, we find that ₹ 83.59 crore is the sum which is collective account of the unreconciled debtors of the assessee, such unreconciled account of the debtors has been written off. Therefore, in fact the amount of debt has been written off in the books of accounts of the assessee. It is true that in ₹ 83.59 crores, the individual debtors account is not known. But, for this reason only on migration when the account receivable from the customers could not be reconciled from the manual accounts to the computerised accounts, this sum was transferred to a consolidated account of the debtors. Had the details of individual accounts available with the assessee, there would not have been a separate account opened for such consolidated debtors. From that consolidated account of the debtors, part of the sum comprising of ₹ 83.59 crores could not be reconciled, which was written off. Therefore, disallowance, of the sum considered as bad debt by the assessee, by the learned lower authorities is not correct, as it satisfies all the conditions of section 36 (1) (vii) read with section 36 (2) of the act. This claim of the assessee is allowed based on the principles of the allowability of bad debts, which are otherwise allowable irrespective of the additional evidence submitted by the assessee. Accordingly, the learned assessing officer is directed to delete the disallowance of ₹ 83.59 Crores being

amount written off in relation to the number of sundry debtors (the customers).

30. The other three disallowance/additions were with respect to

- (i) sum of Rs. 0.23 crores in respect of material not returned,
- (ii) Rs. 0.14 crores being amount of return of relating to excess balance in IndusInd bank and
- (iii) amount written off recoverable from ex-employees for materials not returned or excess material drawn of Rs. 0.22 crores.

The reasons for making the about disallowance by the learned assessing officer as the amount of provision being contingent in nature.

31. The learned CIT – A has dealt with the sum of 0.23 crores and 0.22 crores in paragraph number 10.8(iv)of his order at page number 80 of 89

32. Learned authorised representative at the beginning of the hearing submitted that the disallowance made by the learned assessing officer of ₹ 0.23 crores referred to in ground number 2 of the appeal with respect to material not returned is not pressed. Accordingly the disallowance of Rs 0.23 crores is confirmed.

33. Coming to the issue of the disallowance of ₹ 0.22 crores he referred to page number 79 of the order of the learned CIT – A wherein this disallowance is discussed. The learned CIT – A categorically noted that

in note number 2.13 in other current assets, page number 184 of the annual report and amount of ₹ 7.21 crores has been reduced from other assets under the head provision for doubtful of recovery from employees whereas the amount of recoverable from ex employees is shown as ₹ 10.27 crores as part of the other assets. Thus the figure of ₹ 7.21 crore is not reconciled with the other figure of amount written off consisting of advances given to employees of Rs 2.21 crore and 0.22 crore being amount written off of recoverable from ex-employees – material not returned/access material drawn. The learned CIT – A directed assessee to clarify with supporting evidence that materials and advances issued to employees and advances issued to suppliers were not debited in the consumption expenses in the year of issue and duly considered in those years for the valuation of inventory. Because, it is likely that the material issued to employee is removed from the inventory of the appellant and thus expenditure on account of such material is already booked in the year of issue of such material to the employees. The assessee was also asked to explain the relevant accounting practice. The assessee did not submit any explanation except by letter dated 29/3/2023 that these are in the nature of write-off of assets.

34. The learned authorised representative referred to page number 2733 of the paper book wherein accounting entries are explained. He further referred to page number 2739 and 2740 of the paper book wherein the amount of balance as per trial balance is stated. He referred to the sum of ₹ 22,468,74 relating to rural South division of the company related to amount recoverable from employees as unused materials not returned/

- excess material is drawn. It was his claim that it is not a bad that but a business loss. He further referred to judicial precedent placed at page number 110 of the case law compilation and also relied on the decision of 349 ITR 250 [Bom] in case of Harshad J Chokshi. The learned authorised representative also referred to page number 9 – 11 comprising in paragraph number m – r of the written submission.
35. The learned departmental representative vehemently supported the order of the learned lower authorities. It was submitted that the reasons given by the learned CIT – A that whether the sum of 0.22 crores from ex-employees has already been reduced from the inventory in the year in which they were issued, has not been shown by the assessee. Therefore if the assessee does not furnish the proper and complete details, the disallowance has rightly been made.
36. We have carefully considered the rival contention and perused the orders of the learned lower authorities. Here the issue is whether a sum of ₹ 0.22 crores as shown by the assessee in other current assets is stated to be an amount written off recoverable from ex employees who have not returned the material issued to them or excess material drawn by them. The claim of the assessee is that such sum is allowable to the assessee as deduction as business loss. The learned lower authorities have considered this as bad and doubtful debts and disallowed the same. The lower authorities have confirmed the disallowance for the reason that the assessee failed to furnish the details and failed to reconcile the same with the annual accounts. Before us the learned authorised representative

referred to page number 2733 of the paper book which is a journal voucher entry dated 31/3/2017. By that sum the assessee has debited a sum of Rs 270,36,033 wherein amount recoverable from employees and used materials not returned or excess material is drawn amounting to ₹ 22,46,874/- is mentioned. Therefore apparently from the books of accounts of the assessee it shows that this is provided as bad and doubtful debts. Therefore now the question of claiming the same as a business loss does not arise because assessee has failed to show that the loss has arisen during the year. Merely because it is the claim of the assessee that same should be allowed as a business loss, it cannot be allowed unless it satisfies the provisions of section 28-29 of the income tax act. In fact when the books of accounts shows that this is merely a provision for bad and doubtful debts, naturally there is no provision in the income tax act applicable to the assessee, which shows that it is allowed while computing taxable profits of the assessee. Various judicial precedents relied upon by the learned authorised representative also does not support the case. Accordingly we do not find any infirmity in the order of the learned CIT – A in confirming the disallowance of ₹ 0.22 crores being amount provided as bad and doubtful debts from ex-employees to whom materials issued are not returned as well as excess material is drawn by them.

37. The next issue involved is the addition to the extent of ₹ 0.14 crores the learned CIT – A referred to this issue in paragraph number 10.9 (B) wherein it has been mentioned that there is a write-off of ₹ 0.14 crores by the assessee which is related to excess balance in the said bank. The

- assessee has referred the audit enquiry number 31 and has stated that all the balances has been transferred after collection to main account of Bangalore metro areas zone. The assessee claimed that the balances as per the bank statement of all the subs divisions was Rs Nil and the balances were being shown wrongly in the books of account of the assessee. The recoverability of such bank balance as per bank of account was considered doubtful and hence the assessee justified the said claim made.
38. During the course of hearing the learned CIT – A the assessee was asked to prove that when all collections have been transferred to main Branch and already shown as an income. He held that mere existence of certain fictitious assets figures in the books of accounts of the appellant does not partake nature of income already disclosed wrongly as income in earlier years. The assessee was asked to submit necessary clarification and evidences. The assessee did not submit any clarification and therefore the learned CIT – A confirmed the disallowance.
39. The learned authorised representative submitted before us that above sum represents erroneous excess balance in the bank account of the assessee as per books of account but in fact does not exist as per the bank ledger. Thus, in the books of account balance is shown which does not exist at all with the bank. This was brought to the notice of the assessee as per the audit enquiry, though assessee wrongly grouped the same under the head provisions debited to profit and loss account relating to receivable from ex-employees, but in fact written off the

above sum. It was submitted that over statement of bank balance in account of subdivision of the assessee in the books of accounts of ₹ 0.14 crores has been written off during the financial year 2016 – 17. It was further stated that that assessee had an arrangement with the bank for collection of cash and cheques from all subdivisions in the bank account of the assessee. The bank would account them in the accounts opened in the names of the respective subdivisions and transfer the balance to the main account of the assessee. The balance as per bank statement of all the subdivisions was Nil , however the six divisions had a balance in the bank account as per their books of accounts of the assessee of Rs 0.14 Crores. The assessee has written of the above fictitious bank balances shown by the assessee in its books of accounts of subdivision and claimed it as a loss. As the amount is already on account of collection of cash and cheque from customers, there cannot be any doubt that the amount is already accounted for as income in earlier years. The learned authorised representative referred to page number 2746 - 22748 of the paper book to show the various accounting journal entries. Thus the assessee said that the above amount written off be allowed to the assessee as a business loss.

40. The learned departmental representative vehemently supported the order of the learned CIT – A and submitted that when the assessee has not submitted any details before the learned CIT – A and has failed to give any explanation, the disallowance has been made and confirmed correctly. Even before the tribunal, the assessee could not show any evidence and therefore same cannot be allowed.

41. We have carefully considered the rival contentions and perused the orders of the learned lower authorities. The simple issue involved in this ground is that assessee has in fact no balances with the IndusInd bank as per the bank statement. But zonal accounts, the trial balance is showing balances with the banks. Therefore, it is the case of non-reconciliation of the bank account in the books of accounts of the assessee with actual bank balances available with the banks in the account of the assessee. This was found during the year that there exists an excess balance in the bank account as per the books of the assessee which did not exist in the bank itself. These are the minor differences arising on account of reconciliation. It was pointed out by the audit party. The assessee on its failure to reconcile the same decided to write it off to the profit and loss account but wrongly clubbed into another account head. Therefore, if the assessee has come to know about the error in its books of account during the year, of nonexistence of an asset, though disclosed as an existing asset in books of accounts of the assessee, writing off the same would be allowable to the assessee as deduction. Therefore, as the amount is small and it has arisen out of the bank reconciliation, same is allowable to the assessee under section 28 of the act for computation of profits and gains. Accordingly, we direct the learned lower authorities to delete an amount of ₹ 0.14 crores on account of excess balance of in the said bank.
42. The next issue of the disallowance is a sum of Rs 2.21 crores being amount written off consisting of advances given to various parties. Further another issue is also with respect to the disallowance of ₹ 0.27

crores being amount written off consisting of materials issued to the staff which has not been returned.

43. The brief fact shows that the assessee has made an advance of Rs 2.21 crores to various parties mentioned in the schedule placed at page number 2736 – 2737 of the paper book. These were the advances made to the contractors. This sum was written off by the assessee in the books of accounts. The learned lower authorities has disallowed the above claim holding that there is no evidences available whether the advances given by the assessee are allowable to the assessee in absence of any backup and further details. The learned CIT – A also noted this fact and stated that this sum has not been reconciled.
44. Contesting the above issue, the learned authorised representative referred to the written submission made at page number 24 – 31. It was submitted that the learned Commissioner of income tax (appeals) failed to appreciate that the same amount was not shown as income in the earlier years and therefore it does not qualify as a bad debt. It was submitted that a sum of Rs 2.21 crores relates to advances given to various parties and the same has not been received back, is a business loss and ought to have been allowed under section 28 of the act. This aspect of business loss was specifically urged before the Commissioner of income tax appeals but was not allowed in favour of the assessee.
45. The learned authorised representative further referred to application for additional evidences wherein the assessee explained that what is the system of the assessee at the time of the issue of the material. He further

referred to the issue that a sum of Rs 2.21 crores and Rs 0.27 crores are comprising of the sum of Rs 2.48 crores which has been written off in the financial year 2016 – 17 only. The assessee also explained the accounting entries as well as the manual (standard operating procedure) when the material is issued to the staff, employees etc. It was stated that when the material is issued, it was debited to the capital work in progress and when the same is not returned, same is transferred to the asset account being amount recoverable from employees. The amount which is stated to be recoverable, when it is not realised, same is written off as a provision in the books of accounts of the assessee. It was further stated that the recovery of the above advance given to the suppliers is also not expected and therefore same was debited to the profit and loss account. It was further stated that the entire amount of ₹ 248 lakhs are amounts of materials advance to employees/ suppliers during the course of business activities of the assessee. Therefore the same is a business loss to the assessee and is allowable in view of the decision of the honourable Supreme Court in case of 34 ITR 10, the decision of the honourable Bombay High Court in case of 349 ITR 240 and honourable Madras High court in 415 ITR 146. Assessee also relied upon the several judicial precedents in his case law compilations.

46. The learned departmental representative referred to the paragraph number 10.8 (c) of the order of the learned CIT – A and submitted that assessee has failed to give any evidence with respect to the amount written off which is merely a provision for bad and doubtful debt. He submits that if the advances given to the suppliers, and such amount is

written of, it is not allowable u/s 36 (2) of the Act, as it does not satisfy necessary condition of it being part of income in earlier years. It is also not allowable as loss as it has not been incurred during the year. Further it is not known whether the loss is of revenue nature or not. Merely showing policies cannot help the case of the assessee.

47. We have carefully considered the rival contention and perused the orders of the learned lower authorities.

48. On this issue, there are two different items of disallowances. The first being a sum of ₹ 221 lakhs being amount of advances given to the suppliers in earlier years which could not be recovered by the assessee is debited to the profit and loss account and claimed as bad debts. We find that while dealing with this issue, the learned CIT – A has given its detailed finding at page number 78 – 80 of the appellate order. It is categorically stated that advances given to various parties though are very old but no details have been furnished by the assessee. It was further noted that this sum was wrongly clubbed and stated to be out of advance given to employees. Subsequently it was found that these are the advances which were given to the parties/suppliers in earlier years. Except, relying upon the judicial precedent, the assessee could not substantiate as to when these advances were given, how these advances could not be recovered, who are these parties, why it is allowable to the assessee as a bad debt and alternatively, how to allow it as a business loss, whether the losses incurred during the year or not. In absence of any information, we do not find any infirmity in the order of the learned

- CIT – A in rejecting the reliance on judicial precedent without showing the facts confirming the above addition. Before us also, except the standard operating procedure, the nature of accounting entries being passed, no substantial evidence could be placed with respect to the claim. Before us also, merely judicial precedents are cited without showing the facts. Therefore, we do not have any option, but to confirm the order of the learned lower authorities in confirming the disallowance of ₹ 221 lakhs with respect to the suppliers.
49. With respect to the second item of ₹ 0.27 crores of the advances to the staff, similar conditions apply as far as the claim of the loss raised by the assessee. For this also assessee has failed to give any reason that why such losses are treated as incurred during the year. No further details were provided, except showing us the standard operating procedure, which does not help the case of the assessee. Accordingly, the disallowance by the learned CIT – A ₹ 0.27 crores is also confirmed.
50. Accordingly, ground number 2 – 17 of the appeal are partly allowed.
51. Coming to the ground number 18 – 25 which relates to the computation of book profit under section 115JB of the act. Briefly stated the fact shows that assessee has disputed the action of the learned assessing officer in not allowing the claim of lower of business losses and depreciation as per books of accounts. It is the claim of the assessee that according to the provisions of section 115JB, the assessee is entitled for deduction from the book profit least of the brought forward losses or

- unabsorbed depreciation. It is the claim of the assessee that it has brought forward loss of ₹ 375.33 crores.
52. The learned assessing officer denied any adjustment for the reason that assessee has not filed any form number 29B to substantiate the amount of taxable book profit under section 115JB of the Act.
53. Aggrieved with the same, on appeal before the learned CIT – A paragraph number 11.3 of the appellate order, he directed the learned assessing officer to examine the records again to verify the deductibility of any eligible amount under section 115JB of the act. Thus, he directed the learned assessing officer to compute the book profit tax of the assessee in accordance with the provisions of section 115JB of the act after giving an opportunity of hearing to the assessee.
54. Still the assessee is aggrieved with the same and is in appeal before us. The learned authorised representative has categorically submitted that assessee is entitled to deduction of loss brought forward or unabsorbed depreciation whichever is less while computing the book profit from the profit after tax as shown in the profit and loss account and thereafter it would result into loss under section 115JB of the act and therefore no book profit tax is payable by the assessee. It was submitted that in the revised return filed on 26/3/2018 the computation of income was provided to the learned assessing officer which was ignored. It was further stated that form number 29B is to be filed only if the tax liability is payable under the provisions of section 115JB of the act, as there is no book profit, but a book loss, no tax liability arises, there is no

- requirement of filing form number 29B. Therefore the learned lower authorities are incorrect in stating that as assessee has not filed that particular form, the computation of book profit is made without granting the deduction of least of brought forward losses or unabsorbed depreciation. The learned authorised representative also referred to the frequently asked questions with respect to the above form and stated that assessee is not required to file the form in view of book losses.
55. The learned departmental representative vehemently supported the order of the learned lower authorities and submitted that when the assessee has not filed a mandatory audit report to be filed under provisions of section 115JB of the act, it cannot be determined that what is the least amount of the brought forward losses or unabsorbed depreciation as per the books of accounts of the assessee and therefore in absence of any claim, no amount was allowed as a deduction. It was further stated that in the written submission filed by the assessee also, only unabsorbed loss is shown, there is no details of unabsorbed depreciation. Only the least of two can be granted as deduction. As there is no unabsorbed depreciation available, no deduction is allowable to the assessee.
56. We have carefully considered the rival contention and perused the orders of the learned lower authorities. In the present case it is an accepted fact that the learned assessing officer has computed the book profit under section 115JB of the act without any form number 29B filed by the assessee. In absence of any details of any brought forward losses or unabsorbed depreciation as per the books of accounts, the learned

assessing officer did not grant deduction of least of these two items. When the matter reached before the learned CIT – A, he directed the learned assessing officer to compute the book profit under section 115JB of the act by giving an opportunity of hearing to the assessee and then compute the same in accordance with the provisions of the law. As the issue has been restored back to the file of the learned assessing officer to compute the book profit correctly, it is the duty of the assessee to show that there is any book loss or unabsorbed depreciation available to the assessee to be granted as deduction from the book profit. It is for the assessee to compute and show before the learned assessing officer the brought forward losses and unabsorbed depreciation as per the books of account. As the learned CIT – A has restored this issue back to the file of the learned assessing officer, we do not find any infirmity in that order and direct the learned assessing officer to compute the book profit under section 115JB of the act in accordance with the law. Therefore, ground number 18 – 25 of the appeal are allowed with above directions.

57. Ground number 26 is with respect to the appeal of the learned assessing officer, which has already been dismissed, therefore ground number 26 has become infructuous and hence dismissed.
58. Ground number 27 is with respect to the levy of interest under section 234B of the act, which is consequential in nature and therefore same is dismissed.
59. Ground number 28 – 29 of the appeal are general in nature and therefore does not require any adjudication, hence, dismissed.

60. In the result, the appeal by the assessee is partly allowed and appeal of the ld. AO is dismissed.

Pronounced in the open court on this 06th day of January 2025.

Sd/-

(KESHAV DUBEY)
JUDICIAL MEMBER

Sd/-

(PRASHANT MAHARISHI)
VICE PRESIDENT

Bangalore,
Dated, the 06th January 2025.

/Desai S Murthy /

Copy to:

1. Appellant
2. Respondent
3. Pr. CIT
4. CIT(A)
5. DR, ITAT, Bangalore.

By order

Assistant Registrar
ITAT, Bangalore.