

आयकर अपीलिय अधिकरण "सी" न्यायपीठ मुंबई में।

IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH, MUMBAI

श्री शैलेंद्र कुमार यादव, न्यायिक सदस्य एवं श्री रमित कोचर, लेखा सदस्य के समक्ष ।

BEFORE SHRI SHAILENDRA KUMAR YADAV, JM
AND SHRI RAMIT KOCHAR, AM

आयकर अपील सं./ITA Nos. 3123 & 6331/Mum/2013
(निर्धारण वर्ष/Assessment Years: 2009-10 & 2010-11)

Pegasua Assets Reconstruction P. Ltd. Deputy Commisoin of
55-56, 5th Floor, Free Press House बनाम/ Income Tax - 3(2)
Free Press Journal Road Vs. Mumbai
Nariman Point, Mumbai 400021

स्थायी लेखा सं./PAN - AADCP3334Q

अपीलार्थी/APPELLANT

प्रत्यर्थी/ RESPONDENT

अपीलार्थी की ओर से / Appellant by: Shri Haresh G. Buch &
Ms. Monica S. Agarwal
प्रत्यर्थी की ओर से/ Respondent by: Shri B.S. Bist

सुनवाई की तारीख /Date of Hearing : 14.10.2015
घोषणा की तारीख/Date of Pronouncement : 30.10.2015

आदेश / O R D E R

PER SHAILENDRA KUMAR YADAV, JM

Both these appeals are filed by the orders of the CIT(A)-4, Mumbai and they pertain to assessment years 2009-10 and 2010-11. Since common issue is involved in both the appeals, they are disposed of by the combined order for the sake of convenience.

2. **ITA No. 3123/Mum/2013:** The assessee is engaged in the business of acquiring Non Performing Assets (herein after called 'NPA') from banks and financial institutions and then recover or

realize the money from such loan accounts or from the assets acquired with NPA as security. The amount paid for acquiring NPA is capitalized in the books of account and any expenditure subsequent to it, relating to any particular NPA, is also capitalized with it and the same is carried forward as current asset, whereas, normal business expenses of maintaining office, etc. are charged to the Profit & Loss Account. But in the return of income assessee has claimed that all expenses which are incurred relating to any NPA subsequent to its acquisition were in the nature of revenue expenditure, therefore the same were claimed against the business income, whereas the Assessing Officer has held it as part of work-in-progress with the initial cost of the NPA and to be charged to Profit & Loss Account for the year when the NPA is finally realized, which has been disputed by the assessee.

3. In first appeal assessee raised various contention before the CIT(A) vide it letters dated 20.12.2012 and 07.02.2013 which are detailed on pages 2 & 8 of the order of the CIT(A). The CIT(A), having considered the same, upheld the order of the Assessing Officer.

4. The same stand has been taken before us by, inter alia, submitting that the CIT(A) erred in confirming the action of Assessing

Officer in disallowing revenue expenditure amounting to ₹1,93,93,293/- incurred towards realization of NPA on the ground that the same be treated as work-in-progress with each NPA and can be claimed only when such NPAs are finally settled. Accordingly the orders of the Assessing Officer and CIT(A) be set aside and claim of the assessee be allowed because the same was incurred wholly and exclusively for the purpose of business. On the other hand, the learned D.R. supported the orders of the lower authorities.

5. After going through the rival submissions and the material before us we find that the business of the assessee involves acquiring NPAs from banks or financial institutions. These NPAs are loan amounts of various types of parties where loss is outstanding against the party and such party has also given certain assets as security to the bank/ financial institutions. The charge of such securities also comes to the assessee with NPAs. Either the NPA loan is recovered from the party and automatically the charge of the assts by which the loan was secured comes to an end. But generally such loans are bad accounts therefore assessee has to realize the money by disposing of the assets secured against such loan. Any profit or loss at the end of the entire process of recovery and disposing of the assets is charged/credited to the Profit & Loss Account. This is a long drawn

process and may involve a few years. There is uncertainty about the amount to be realized and the period during which it would be realized. In view of this the assessee wants to claim the expenses relating to recovery and maintaining of such NPAs to Profit & Loss Account as revenue expenditure. Assessee has practical difficulties in valuing such NPAs because it is not certain as to how much will be the realization and when. It may be difficult to even partially realize the revenue or determine the profit. Therefore the assessee is not crediting Profit & Loss Account with recovery as and when made whereas that is transferred to NPA A/c. and only at the end, net profit or loss is transferred to the Profit & Loss Account. Therefore the expenditure incurred during the recovery process relates to the recoveries which are to be accounted for in the NPA account either in this year or in future whenever the recoveries are made. Therefore, as per matching principle of accountancy they are not matching with the revenue realized before the NPA is settled. Such expenditure should be treated as work-in-progress with each NPA and transferred to Profit & Loss Account only when the NPA is finally settled. Accordingly CIT(A) was justified in rejecting the claim of the assessee on this account. This reasoned findings of the CIT(A) need no interference from our side because such expenses should be treated as work-in-progress with each NPA and transferred to Profit & Loss

Account only when the NPA is finally settled. Accordingly the appeal filed by the assessee is dismissed.

6. Similar issue arose in ITA No. 6331/Mum/2013. The facts being similar, following the same reason given hereinabove we find no reason to interfere with the order of the CIT(A). Same is upheld.

7. In the result, both the appeals filed by the assessee are dismissed.

परिणामतः निर्धारिती की अपीलें खारिज की जाती हैं।

Order pronounced in the open court on 30th October, 2015.

आदेश की घोषणा खुले न्यायालय में दिनांक: 30.10.2015 को की गई।

Sd/- (RAMIT KOCHAR) लेखा सदस्य/ACCOUNTANT MEMBER	Sd/- (SHAIENDRA KUMAR YADAV) न्यायिक सदस्य/JUDICIAL MEMBER
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मुंबई Mumbai, दिनांक Dated 30th October, 2015

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. आयकर आयुक्त(अपील) / The CIT(A) - 3, Mumbai
4. आयकर आयुक्त / The CIT - , Mumbai
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, "C" Bench ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ By Order

सत्यापित प्रति //True Copy//

सहायक पंजीकार /Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई/ITAT, Mumbai