

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**NAGPUR BENCH, NAGPUR**

**BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER AND**  
**SHRI K.M. ROY, ACCOUNTANT, MEMBER**

**ITA no.534/Nag./2024**  
**(Assessment Year : 2017-18)**

Sarda Energy Ltd.  
73-A, Central Avenue Road  
Nagpur 440 018 PAN – AALCS8505J

..... Appellant

v/s

Income Tax Officer  
Ward-4(3), Nagpur

..... Respondent

Assessee by : Shri Nikhilesh Begani  
Revenue by : Shri Abhay Y. Marathe

Date of Hearing – 05/03/2025

Date of Order – 21/03/2025

**ORDER**

**PER K.M. ROY, A.M.**

In the instant appeal, the assessee has challenged impugned order dated 09/08/2024, passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [*learned CIT(A)*], for the assessment year 2017-18.

2. In its appeal, the assessee has raised following grounds:-

"GROUND NO. I

*1. That the ex-parte Appellate Order passed by the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (The Ld.CIT(A)) is highly unjustified, bad in law, without providing reasonable opportunity of being heard, against the principles of natural justice and not in accordance with the provisions of law. Further, the Ld.CIT(A) has grievously erred in summarily dismissing the appeal by not rendering any decision on merits which is contrary to the law laid down by the Hon'ble Bombay High Court in the case of CIT v. Prem Kumar Arjundas Luthra (HUF) (2017) 297 CTR 614*

(Bom.). It is prayed that the Appellate Order passed under section 250 of the Income Tax Act, 1961 ("the Act") may please be cancelled/set-aside on this ground alone.

#### GROUND NO. II

2(i) That the Reassessment Notice was issued on the strength of Approval obtained under sec.151 from the Ld. Pr.CIT-1, Nagpur however, since the case was reopened based on Para 1(v) of the Instruction issued by the Hon'ble CBDT, the approval or sanction in terms of sec.151(ii) was required to be mandatorily obtained from the Hon'ble CCIT Nagpur hence, the present reassessment notice and the reassessment order passed is highly illegal, lacking jurisdiction, bad in law, unsustainable and void ab initio.

(ii) That the sanction/approval accorded by the Ld. Pr. CIT under section 151 was given in the most mechanical manner, perfunctory and suffering from patent non application of mind hence, the reassessment proceedings are highly illegal, lacking jurisdiction, bad in law, unsustainable and void ab initio

(iii) That the reopening has been done without satisfying the jurisdictional requirement of information suggesting income chargeable to tax escaping assessment since, the reasons are not definite in conclusions, vague, scanty, hypothetical, incomprehensible, without applying independent mind to the Audit Objection raised by the Revenue Audit Party and hence, unsustainable in the eyes of law in this regard this regard.

(iv) That the reopening of the completed assessment appears to be purportedly done at the behest of the Revenue Audit Party without any independent application of mind by the Ld.JAO hence, the present reassessment proceedings were initiated as a result of borrowed satisfaction which is impermissible and unsustainable in the eyes of law in this regard.

(v) That the reopening of the completed assessment suffers from the vice of change of opinion without there being any new tangible material in possession justifying such reopening.

(vi) That the reopening merely seeks to change the head of income hence, the jurisdictional requirement of constituting an asset representing escaped income contemplated under section 149 of the Act for invocation of larger period was not invocable hence, reopening was impermissible and unsustainable in the eyes of law.

Hence, it is earnestly requested that the appellate order passed by the Ld.CIT(A) affirming the reassessment order passed by the Ld.Assessing Officer, National Faceless Assessment Centre ("the Ld.AO) may please be quashed & annulled on this ground alone.

#### GROUND NO. III

3. On the facts and circumstances of the case as well as in law, the Ld.CIT(A) has grievously erred in affirming the action of the Ld.AO in assessing the interest income (net of expenses) to the extent of Rs.1,18,80,421/- as chargeable to tax under the head Income From Other Sources solely relying

*upon the inchoate and profligate findings reached by the Revenue Audit Party thereby fallaciously bringing the same to tax under the provisions of section 56 of the Act stating it as business income declared by the appellant.*

*The Ld.CIT(A) has failed to appreciate that the business of the appellant company has been up and duly commenced the activities relating to the business and lending of money is one of the Objectives as per the Objects Clause in the Memorandum of Association and accordingly, the activities carried out will invariably be of business nature only and as a corollary, the same has rightly been set off from brought forward business losses hence, the invocation of the provisions of section 56 of the Act to tax the same under the residuary head is patently illegal, irrational, perverse and arbitrary and explicitly based upon the fallacious observations.*

*Hence, the assessment of interest income as income from other sources & consequential denial of set-off of brought forward losses is highly unjustified, unwarranted, unsustainable, presumptive, arbitrary, uncorroborated, lacking intelligible basis, purely based on the dictates of observations in the Order under section 148A(d), not proper on facts and not in accordance with the provisions of law and it is earnestly requested that the same may please be deleted.*

#### GROUND NO. IV

*4. That the Appellant craves leave to add, amend, alter or delete all or any of the grounds of Appeal at the time of hearing of the appeal."*

3. At the time of hearing, an application for admission of additional grounds of appeal was furnished and the same is reproduced below:–

*"MOST RESPECTFULLY SHEWETH:*

*1. That the appellant filed the aforesaid appeal before the Hon'ble Bench on 5th October, 2024 against the ex-parte Appellate Order passed by the Ld. Commissioner of Income Tax (Appeals) National Faceless Appeal Centre, Delhi confirming the Assessment Order passed u/s.147 r.w.s. 1448 by the Assessing Officer, National Faceless Assessment Centre, Delhi*

*2. Without prejudice to the Grounds of Appeal raised in the Form Of Appeal as aforesaid, the Appellant prays for the admission and adjudication by the Hon'ble Tribunal, of the following Additional Grounds of Appeal which are purely legal & goes to the root of the matter, which do not require investigation into, or examination of, any new facts or evidence that were not already available before the Ld.AO and Ld.CIT(Appeals); this merely involves interpretation of the provisions of the Income-tax Act, 1961 ('the Act') which the Hon'ble Tribunal is otherwise competent to do, in view of the principles laid down by the Hon'ble Supreme Court in the case of National Thermal Power Co. Ltd. Vs. CIT (1998) 229 ITR 383 (SC). Before Ground No. 1, the following grounds may kindly be allowed to be added:*

*(i) That the re-opening notice dated 30.06.2022 issued u/s. 148 under the amended provisions of law is barred by limitation, unsustainable, invalid, void ab initio and untenable in view of the Judgment of Hon'ble Supreme Court in case of Union of India vs. Rajeev Bansal [2024] 167 taxmann.com 70 (SC)(03-10-2024) as the same was issued beyond the 'surviving period under the Income Tax Act, 1961 ('the Act') read with TOLA and hence, the reassessment order passed u/s. 147 r.w.s. 1448 of the Act on 17.05.2023 is bad in law, barred by limitation, unsustainable and liable to be set aside and quashed.*

*(ii) That the Reassessment Notice was issued on the strength of Approval obtained under sec. 151 from the Ld. Pr.CIT-1, Nagpur however, since already three years have elapsed from the end of assessment year hence, the case falls for approval u/s.151(ii) and accordingly, the approval or sanction in terms of sec. 151(ii) was required to be mandatorily obtained from the Hon'ble PCCIT Nagpur hence, the present reassessment notice and the reassessment order passed is highly illegal, without jurisdiction, bad in law, unsustainable and void ab initio and liable to be set aside and quashed.*

*In view of the above, since the additional grounds of appeal raised thus, goes to the root of the matter having a vital bearing on the tax liability of the appellant, it is prayed that the additional grounds of appeal raised may kindly be admitted exercising plenary powers vested in your honours under Rule 11 of the Appellate Tribunal Rules, 1963 r.w. section 254 of the Income Tax Act, 1961."*

4. The additional grounds now raised are only an amended and refined version of grounds of appeal in Form no.36, and hence at the most can be termed as re-drafted grounds of appeal which accordingly do not merit acceptance. Be it as may, there is an absolute non-cooperation before the Assessing Officer and the learned CIT(A) as well by the assessee who, for reasons best known had remained a silent spectator. The assessee is now taking shelter of certain nebulous legal issues which do not inspire confidence. Without commentary on merits of the grounds of appeal raised, the matter is hereby restored to the file of the learned CIT(A) to take a call and to pass a detailed order on merits.

5. In the result, assessee's appeal stands allowed for statistical purposes.

Order pronounced in the open Court on 21/03/2025

**Sd/-**  
**V. DURGA RAO**  
**JUDICIAL MEMBER**

**Sd/-**  
**K.M. ROY**  
**ACCOUNTANT MEMBER**

**NAGPUR, DATED: 21/03/2025**

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Nagpur; and
- (5) Guard file.

*Pradeep J. Chowdhury*  
*Sr. Private Secretary*

True Copy  
By Order

Sr. Private Secretary  
ITAT, Nagpur