

**IN THE INCOME TAX APPELLATE TRIBUNAL
"A" BENCH MUMBAI**

**BEFORE HON'BLE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER &
HON'BLE SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER**

**ITA No.2890/Mum/2024
(Assessment Year: 2019-20)**

L&T Infrastructure Finance Company Ltd., (merged with L&T Finance holdings Ltd., renamed as L&T Finance Ltd.) Plot 177, Brindavan Bldg, CST Road, Kalina, Santacruz (E), Mumbai -400 098	Vs.	The Pr. CIT – 6 Aayakar Bhavan, MK Road, Mumbai – 400 020.
PAN/GIR No. AABCL2283L		
(Applicant)		(Respondent)

Assessee by	Shri Alpesh Dharod
Revenue by	Dr. K. R. Subhash (CIT-DR)

Date of Hearing	03.04.2025
Date of Pronouncement	29.04.2025

आदेश / ORDER

PER SANDEEP GOSAIN, JM:

The present appeal has been filed by the assessee challenging the impugned order 22.03.2024 passed u/s 263 of the Income Tax Act, 1961 ('the Act'), by the principal Commissioner of Income Tax for the assessment year 2019-20.

2. All the grounds raised by the assessee are interrelated and interconnected and relates to challenging the order of Ld. PCIT in passing order u/s 263 of the Act. Therefore we have decided to take up all the grounds together and to adjudicate the same through the present consolidated order.

3. We have heard the counsels for both the parties, perused the material placed on record, judgments cited before us and also the orders passed by the revenue authorities. As per the facts of the present case in the year under consideration, the assessee had computed loss u/s 115JB of the Act amounting to Rs. 37,84,41,697/- in the original return and had claimed an amount of Rs. 554.11 Crore on account of deduction of bad debts and advances written off as per Sec. 36(1)(vii) of the Act. Therefore proceedings u/s 263 of the Act were initiated by the Ld. PCIT and it was held that the order passed by the AO was erroneous in so far as it is prejudicial to the interest of the revenue and the assessee had not correctly computed book profit / loss u/s 115JB of the Act and the claim of deduction as per Sec. 36(1)(vii) of the Act.

4. Now in the present appeal, the assessee has challenged the impugned order passed u/s 263 of the Act

and submitted that Sec. 263 of the Act requires two conditions to be fulfilled for initiation of revisionary proceedings i.e (i) The order of the AO must be erroneous; (2) It must be prejudicial to the interest of revenue. If either of the condition is absence, then Sec. 263(1) of the Act cannot be invoked to revise the order passed u/s 143(3) of the Act and in this regard relied upon the decision of Hon'ble Supreme Court in the case of **Malbar Industries Co. Ltd Vs. CIT, 243 ITR 83(SC)** wherein it was held that *incorrect assumption of facts or an incorrect application of law will satisfy the requirement of the order being erroneous. The phrase '**prejudicial to the interests of the revenue**' has to be read in of conjunction with an erroneous order passed by the Assessing Officer. Every loss of revenue as a consequence of an order of the Assessing Officer cannot be treated as prejudicial to the interests of the revenue.*

5. Further it was submitted that the order of assessment passed by the AO is not prejudicial to the interest of the revenue because the assessee had filed correct computation while filing return of income. During the course of revisionary proceedings u/s 263, the assessee has always contended that the computation as per filed ITR - 6 should be taken into account wherein the book loss is

correctly computed. Thus there is no loss of revenue and it cannot be said that the order is prejudicial to the revenue.

6. On the contrary Ld. DR relied upon the orders passed by the Ld. PCIT.

7. After having gone through the facts of the present case and the material placed on record and after hearing both the parties at length, we found from the records that as for as the question of erroneous computation of book loss u/s 115JB of the Act is concern, it is an undisputed fact that during previous year, the assessee reported a book loss of Rs. 37,84,41,697/- u/s 115JB in the original return of income. However, in the revised return of income, an erroneous amount of Rs. 2,69,73,94,318/- was determined due to the profit after tax being inadvertently recorded as Nil due to a technical glitch in the income tax e-filing utility.

8. Consequently, the AO while passing the order u/s 143(3) of the Act had assessed book loss at Rs. 42,90,88,151/-. However, Ld. PCIT while appreciating the facts found that the assessee during the course of assessment proceedings had furnished a Computation of Income as per which the Book profit was computed at Rs.

(-) 42,90,88,151/-, reducing "Provision for NPA, ECL and restructuring" of Rs. 825,67,60,450/-, whereas the Computation filed along with ITR reveals that an amount of Rs. 556,84,45,139/-, has been reduced on a/c of "Provision for NPA and ECL Provision" and arriving at a Book Profit of Rs. (-) 37,84,41,697/-. However, it is seen that the AO without verifying the calculation, had simply accepted the computation of income filed during the assessment proceedings and assessed the book loss at Rs. 42,90,88,151/- Therefore, from the above facts it is clear that the order dated 23.09.2021 is both erroneous and prejudicial to the interests of the revenue and is covered by clause (a) to Explan. 2 of Sec. 263.

9. We found that Ld. PCIT while invoking the revisional power u/s 263 of the Act has recorded well reasoned judicial finding considering the fact of the case which in our view needs no interference.

10. As far as the second issue as raised in this appeal regarding denial of the claim of bad debts and advances return off u/s 36(1)(vii) of the Act are concern. In this regard it has been outrightly admitted and submitted by the Ld. AR that this ground is no longer pressed as relief has already been granted vide order passed by the AO u/s

143(3) r.w.s 263 of the Act dated 24.03.2024. No new material or documents have been placed on record to rebut or controvert the findings recorded by the PCIT. Therefore considering the legal as well as factual position we dismiss the appeal filed by the assessee.

10. In the result, the appeal filed by the assessee stands dismissed.

Order pronounced in the open court on 29.04.2025.

Sd/-

**(PRABHASH SHANKAR)
ACCOUNTANT MEMBER**

Sd/-

**(SANDEEP GOSAIN)
JUDICIAL MEMBER**

Mumbai, Dated 29/04/2025

KRK, PS

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

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

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

1.

उप/सहायक पंजीकार (Asst. Registrar)
आयकर अपीलीय अधिकरण, मुम्बई / ITAT, Mumbai