

IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH : BANGALORE

BEFORE SHRI N.V. VASUDEVAN, JUDICIAL MEMBER
AND SHRI ABRAHAM P. GEORGE, ACCOUNTANT MEMBER

ITA No.664/Bang/2013
Assessment year : 2006-07

M/s. United Breweries Ltd., UB Tower, UB City, No.24, Vittal Mallya Road, Bangalore – 560 024. PAN : AAACU 6053C	Vs.	The Commissioner of Income Tax, Bangalore-III, Bangalore.
APPELLANT		RESPONDENT

Appellant by	:	Smt. Sheetal Borkar, Advocate
Respondent by	:	Shri C.H. Sundar Rao, CIT-I(DR)

Date of hearing	:	12.02.2015
Date of Pronouncement	:	20.02.2015

ORDER

Per N.V. Vasudevan, Judicial Member

This appeal by the assessee is against the order dated 28.2.2011 of the Commissioner of Income-tax, Bangalore-III passed u/s. 263 of the Act in relation to assessment year 2006-07.

2. The assessee is a company engaged in the business of manufacture and sale of beer. The AO completed the assessment u/s.

143(3) of the Act determining total income under the provisions of section 115JB of the Act as the tax payable on the book profits u/s. 115JB of the Act was higher than the total income and tax payable thereon under the normal provisions of the Act.

3. By the impugned order the CIT was of the view that while computing book profits u/s. 115JB of the Act, the AO failed to add to the book profits a sum of Rs.4,26,75,114 which was the sum disallowed by invoking provisions of section 14A of the Act, while computing total income of the assessee under the normal provisions of the Act by the AO. According to the CIT, the aforesaid sum disallowed u/s. 14A was required to be added to the profit as per profit & loss account in view of Explanation 1(f) to section 115JB of the act to arrive at the book profits.

4. Aggrieved by the aforesaid order of CIT, the assessee has filed the present appeal before the Tribunal.

5. At the time of hearing of appeal, it was brought to our notice that consequent to the passing of impugned order by the CIT u/s. 263 of the Act, the AO passed an order of assessment dated 21.1.2013 giving effect to the directions of CIT. In the said order, the AO added to the profit as per profit & loss account the amount disallowed u/s. 14A of the Act for the purpose of computing book profits u/s. 115JB of the Act. The assessee filed an appeal against the said order and CIT(Appeals) by order dated 9.10.2013 deleted the addition made by the AO against which revenue filed

an appeal in ITA No.85/Bang/2014 before the Tribunal. Against the original order of assessment dated 29.12.2008, an appeal was filed by the assessee before CIT(A), who by an order dated 7.10.2013 deleted the addition made by the AO u/s. 14A of the Act. The Revenue filed an appeal before the Tribunal in ITA No.84/Bang/2014. Both the appeals were heard by this Tribunal together and by an order dated 24.11.2014, the Tribunal set aside the issue to the AO for consideration afresh in the light of observations made in the said order.

6. The Id. counsel for the assessee therefore submitted that the present appeal by the assessee has become infructuous.

7. The submission made was considered and accepted. Accordingly, the appeal by the assessee is dismissed as infructuous.

Pronounced in the open court on this 20th day of February, 2015.

Sd/-

(ABRAHAM P. GEORGE)
Accountant Member

Sd/-

(N.V. VASUDEVAN)
Judicial Member

Bangalore,
Dated, the 20th February, 2015.

/D S/

Copy to:

1. Appellant
2. Respondents
3. CIT
4. CIT(A)
5. DR, ITAT, Bangalore.
6. Guard file

By order

Assistant Registrar /
Senior Private Secretary
ITAT, Bangalore.