

आयकर अपीलीय अधीकरण, न्यायपीठ –“A” कोलकाता,
IN THE INCOME TAX APPELLATE TRIBUNAL “A” BENCH: KOLKATA
[Before Shri J. Sudhakar Reddy, AM and Shri A. T. Varkey, JM]

I.T.A. No. 248/Kol/2020
Assessment Year: 2016-17

United Teleservices Ltd. (PAN: AABCU3091K)	Vs.	Assistant Commissioner of Income- tax, Circle-12(2), Kolkata.
Appellant		Respondent

Date of Hearing	10.02.2021
Date of Pronouncement	.02.2021
For the Appellant	Shri Subhas Agarwal, Advocate
For the Respondent	Shri Manish Kanojia, CIT DR

ORDER

Per Shri A. T. Varkey, JM:

This appeal preferred by the assessee is against the order of Ld. CIT(A)-4, Kolkata dated 11.02.2020 for AY 2016-17.

2. The grounds of appeal raised by the assessee are as under:

1. (a) For that on the facts and in the circumstances of the case, the Ld. CIT(A) was not justified in holding that the addition made by the A.O. on account of business promotion expenses u/s. 40(a)(ia) is restricted to Rs. 20,65,713/- when the total addition made by the A.O. itself was Rs. 15,12,574/-.

(b) For that on the facts and in the circumstances of the case, the Ld. CIT(A) ought to have deleted the disallowance of Rs. 15,12,574/- being 30% of Rs. 50,41,915/- on account of business promotion expenses made by the A.G. by wrongly invoking the provision of section 40(a)(ia).

2. For that on the facts and in the circumstances of the case, the Ld. CIT(A) ought to have allowed Rs. 4,02,837/- on account of interest on office loan disallowed by the A.O.

3. (a) For that on the facts and in the circumstances of the case, the Ld. CIT(A) erred in making an enhancement of Rs. 20,35,95,402/- in the hands of the assessee on account of alleged inflated purchases.

(b) For that the Ld. CIT(A) was not justified in introducing in the assessment, a new source of income and failing to confine himself to those items of income which were the subject matter of the original assessment.

(c) For that the Ld. CIT(A) failed to afford full and proper opportunity before proceeding to make huge and unjustified enhancement of Rs. 20,35,94,402/-.

3. As far as ground no. 1(a) is concerned, the Ld. AR Shri Subhas Agarwal drew our attention to page no.2 of the assessment order, from which it is seen that AO has made a chart wherein he has noted that the assessee company failed to deduct tax at source in respect of sixteen (16) items of expenses to the tune of Rs.50,41,915/- and, therefore, he disallowed 30% of it u/s. 40(a)(ia) of the Income Tax Act, 1961 (hereinafter referred to as the "Act") i.e. Rs.15,12,574/-. Aggrieved, the assessee preferred an appeal before the Ld. CIT(A) who has decided the issue at page 6 and 7 of the impugned order wherein the Ld. CIT(A) has given relief to the tune of Rs.29,76,202/- (expenditure) by excluding four (4) items of expenditure and one duplicate entry from TDS. However, while disposing off this ground of appeal, the Ld. CIT(A) directed the AO the following:

"In view of the above, the amount of Rs.29,76,202/- was not liable for deduction of taxes for the remarks given in the above table, therefore, the addition is restricted to Rs.20,65,713/-. Accordingly, this ground is partly allowed."

4. This direction of the Ld. CIT(A) is being challenged by the Ld. AR stating that the total disallowance made by the AO was only at Rs.15,12,574/- (i.e. 30% of Rs.50,41,915/-) whereas the Ld. CIT(A) after giving partial relief erroneously enhanced the addition to Rs.20,65,713/- (Rs.50,41,915/- - 29,76,202/-) which was the expenditure on which the Ld. CIT(A) found that the assessee was liable to deduct taxes and, therefore, the Ld. CIT(A) ought to have directed 30% on the amount of Rs.20,65,713/- i.e. (@30% of Rs.20,65,713/- and not disallowance of Rs.20,65,713/-. However, by raising ground no. 1(b) the Ld. AR further contended that out of this relief granted for the expenditure in respect of Rs.29,76,202/- the assessee is challenging his action/omission in respect of payments made to M/s. Rakshit & Company amount of Rs.2,27,282/- and M/s. Choicest Enterprise Ltd. to the tune of Rs.9,53,105/-. According to the Ld. AR, these two payments were made to decorators/event managers. In order to substantiate these expenditures' genuinity, he drew our attention to page 22 and 23 of the paper book which are the bill of M/s. Rakshit & Company; and thereafter he drew our attention to page no. 27 wherein the bill of M/s. Choicest Enterprise Ltd. has been found placed. According to the Ld. AR payments made to these two concerns must have been reflected in their respective turnovers and in their ROI, and they ought to have paid the taxes on it, so, he pleaded that no disallowance u/s. 40(a)(ia) of the Act is warranted for these two expenses. Per contra, the Ld. DR did not

object to the correction raised in ground no. (1)(a), which is per-se evident. However, in respect to the relief claimed in respect of expenditures in respect of two concerns are concerned, according to Ld. DR, factual verification is necessary, therefore, he pleaded that these two expenses may be remanded for verification back to AO.

5. Having heard both the parties we are not repeating the facts narrated above for the sake of brevity. In respect of ground no. 1(a), we find that the Ld. CIT(A) erred while giving direction to restrict the addition to Rs.20,65,713/- because at the first place the AO had made the disallowance only to the tune of Rs.15,12,574/-. It is noted that the Ld. CIT(A) had given partial relief to the assessee by taking note of the fact that expenditure in respect of items amounting to Rs.29,76,202/- was not liable for deduction of taxes for various reasons stated in the chart prepared by him at pages 6 and 7 of the impugned order. However, when he gave the final direction, he erroneously directed that the addition may be restricted to Rs.20,65,713/- (Rs.50,41,915 – Rs.29,76,202). So, there is an error apparent on the face of the record. The Ld. CIT(A) after giving partial relief to the expenditure to the tune of Rs.29,76,202/- could have only directed that the disallowance could have been made only in respect of the expenditure regarding Rs.20,65,713/- i.e. 30% of Rs.20,65,713/- u/s. 40(a)(ia) of the Act. So, the Ld. CIT(A) per-se erred in directing so (supra). Be that as it may be, however, the Ld. AR has pleaded that out of the items on which the Ld. CIT(A) has not given relief in respect of expenditure of Rs.20,65,713/- the assessee seeks verification in respect of two items of expenditure i.e. in respect of M/s. Rakshit & Company and M/s. Choicest Enterprises Ltd. to whom the assessee had made payment of Rs.2,78,282/- and Rs.9,53,105/- respectively. The Ld. AR had drawn our attention to the bills as discussed supra and contends that the AO may verify as to whether these two concerns have shown this amount as receipts in their respective turnover and has paid taxes on it in accordance to law. In such an event it was contended that there should be no disallowance. We find force in the said contention of the Ld. AR and we direct the AO to verify from these two concerns as to whether they (M/s. Rakshit & Company and M/s. Choicest Enterprises Ltd.) have shown these amounts/receipts in their trading receipts in this assessment year and have paid due taxes thereon. The assessee to give all the details to the AO regarding their identity. And, the AO to verify from these concerns the veracity of the payment made by assessee and if the AO finds that both the concerns have shown

these two payments made by the assessee as their receipts and have paid taxes thereon in this assessment year, then no deduction u/s. 40(a)(ia) of the Act is warranted, if not, the same may be confirmed. In respect of other items confirmed by the Ld. CIT(A), the Ld. AR does not want to press taking into account the smallness of the amount and, therefore, those expenses to be disallowed u/s. 40(a)(ia) of the Act. So, this ground is partly allowed for statistical purposes.

6. Ground no. 2 is against the action of Ld. CIT(A) in confirming the disallowance of Rs.4,02,837/- on account of interest on office loan.

7. Brief facts of the case as noted by the AO are that it has come to his notice that expenditure claimed on account of interest on borrowed fund utilized for purchase of office was to the tune of Rs.4,02,837/-. According to the AO, no depreciation was claimed in respect of this office since it does not appear as an item in the fixed asset. According to him, the office was not utilized/put to use in this year for the purpose of business. Thereafter, he applied section 43(1) and section 36(1)(iii) of the Act and held that since the office was not utilized or put to use in the year for the purpose of business interest paid on the capital borrowed for acquisition of the office cannot be allowed and therefore, the sum of Rs.4,02,837/- was disallowed u/s. 36(1)(iii) of the Act. Aggrieved, the assessee preferred an appeal before the Ld. CIT(A) who notes that the office was taken on the fixed asset of the company for the Financial year 2016-17 and office got registered in FY 2016-17 and according to Ld. CIT(A) this expenses of Rs.4,02,837/- cannot be allowed in this year (F.Y. 2015-16). However, according to Ld. CIT(A), the same can be capitalized in the year of acquisition. The Ld. AR assailing the action of the Ld. CIT(A) submitted that the assessee has borrowed an amount of Rs.1,36,65,535/- from the Axis Bank which is discernible from a perusal of page 5 of the paper book. According to Ld. AR, no disallowance could have been made when the assessee possessed mixed fund which includes its own fund in sufficient quantity. Then, according to him, the presumption is that its own funds were utilized for the advances need to be drawn and according to Ld. AR, the assessee's share capital plus Reserve [Rs.1,48,12,000/- + Rs.6,80,76,111/-] totaling Rs. 8,28,88,111/-. Therefore, according to the Ld. AR, when the assessee had sufficient

funds, then the presumption is that its own funds were utilized for the advance and relied on the ratio of the decision of Hon'ble Bombay High Court in the case of CIT Vs. Reliance Utilities & Power Ltd. 313 ITR 340 and CIT vs. HDFC Bank Ltd reported in 366 ITR 505 (Bom.). So, according to the Ld. AR no disallowance was warranted since the assessee has got its own funds of Rs.8,28,88,111/- and the loans taken by it is only to the tune of Rs. 1.3 cr. Per contra, the Ld. DR supports the order of the Ld. CIT(A) and does not want us to interfere.

8. Having heard both the sides and perused the record, we note that the assessee had claimed interest expenditure of Rs.4,02,837/- for its office. The AO disallowed it since this office was not utilized/put to use. The Ld. CIT(A) confirmed the action of the AO. Before us it has been demonstrated that assessee has its own fund to the tune of Rs.8,28,88,111/- and the loan amount is only to the tune of Rs. 1.3 cr. and, therefore, according to the Ld. AR, the assessee possessed mixed fund which includes its own fund in sufficient quantity. Therefore, according to him, presumption needs to be drawn that its own funds were utilized for the purchase of office and, therefore, no disallowance was warranted by applying the ratio of the decision of Hon'ble Bombay High Court in Reliance Utilities & Power (supra). However, we do not agree to the said contention of Ld. AR for the reason that assessee has shown in its books that the loan of Rs. 1.3 cr. has been taken from the Axis Bank for office and claimed deduction in respect of the interest expenditure incurred on this loan. And the AO/Ld. CIT(A) has disallowed the interest expenditure citing sec. 36(1)(iii) of the Act which reads as under:

"36(1) The deductions provided for in the following clauses shall be allowed in the matter dealt with therein, in computing the income referred to in section 28:

(i)

(ii)

(iii) the amount of the interest paid in respect of capital borrowed for the purposes of the business or profession;

*[Provided that any amount of the interest paid, in respect of capital borrowed for acquisition of an asset t'**) (whether capitalised in the books of account or not); for any period beginning from the date on which the capital was borrowed for acquisition of the asset till the date on which such asset was first put to use, shall not be allowed as deduction.]*

Explanation.-Recurring subscriptions paid periodically by shareholders, or subscribers in Mutual Benefit Societies which fulfill such conditions as may be prescribed, shall be deemed to be capital borrowed within the meaning of this clause;"

9. It is noted that the AO has disallowed the interest applying the proviso to clause (iii) of sub-section (1) of section 36 of the Act. The AO has found that the office which has been acquired by loan of Rs.1.3 cr. from Axis Bank has not been utilized/put to use, so he disallowed the interest expenditure. The Ld. CIT(A) has found that the assessee has got the office in question registered next year i.e. F.Y 2016-17 i.e. AY 2017-18, which fact corroborates the finding of AO and therefore, the proviso to section 36(1)(iii) of the Act is attracted. And in this case, the presumption as per the ratio of the decision rendered by Hon'ble Bombay High Court in Reliance Utilities and HDFC (supra) cannot be applied because in those cases, there was mixed funds in the hands of assessee i.e. both own and borrowed funds and allocation of borrowed funds could not be specifically determined. In the case in hand, the loan amount was allocated for its office/capital which is a factual finding, which could not be disproved by the assessee, so the presumption based on mixed fund cannot be applied. So, we confirm the action of Ld. CIT(A). Therefore, this ground of appeal of assessee is dismissed.

10. Ground no. 3 is in respect of action of the Ld. CIT(A) in enhancing the addition by Rs.20,35,95,402/- on account of alleged inflated purchases.

11. At the outset, it is noted that this addition was not made by AO. The Ld. CIT(A) after giving notice to the assessee observed that the assessee has made certain sales at High sea and the same goods have been re-purchased by it again using a layer of companies. So, he issued a show cause notice dated 11.12.2019 to the assessee, which is reproduced as under:

"Please refer to the above.

The appellate proceedings are going on before the undersigned. Your kind attention is invited to explanation to Section 251 of the I. T. Act, 1961 which is as under:

"Any matter arising out of proceedings in which the order appealed against was passed."

During the course of appellate proceeding and perusal of case records it is noted that you have made various purchases from your sister concerns. In this connection, you are hereby requested to furnish:

i) *Sales made by you to your sister concerns,*

- ii) Purchases made by you through your sister concerns,
- iii) Whether the same goods which were sold by you to your sister concerns have been purchased by you using another sister concern. If so please give these details along with the following :
- a) Amount at which sales were made by you to your sister concerns,
- b) Amount at which same goods were purchased by you from these sister concerns.

Your reply on the above must reach this office on or before 24.12.2019 positively.”

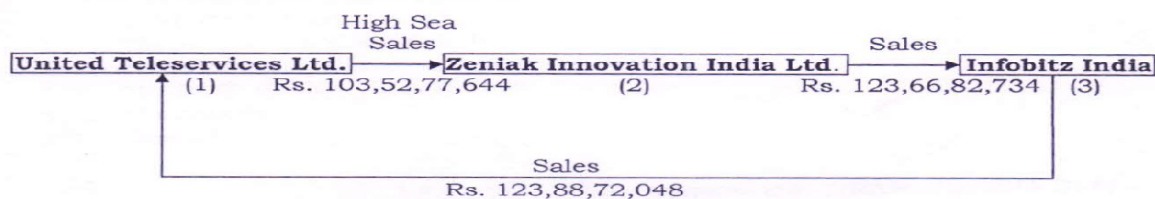
12. The Ld. CIT(A) has reproduced the Replies of the assessee at page 8 to 13 of his impugned order.

Thereafter, the Ld. CIT(A) has held as under:

“From the above, circular movement of goods between United Teleservices Limited and Zeniak Innovation India Limited & Infobitz India can be explained as under :

• **Circular Movement of Goods:**

• **Circular Movement of Goods :**



However, actual inflated purchase in the case of the assessee are as under :

Goods purchased by United Teleservices Ltd.(1) from Infobitz India (3) :	Rs. 123,88,72,048/-
Less : Goods sold to Zeniak Innovation India Ltd.(2) by United Teleservices Ltd.(1):	- Rs. 103,32,77,646/-
	Rs. 20,35,95,402/-

From the above, it is clear that the assessee has accepted that it purchased the same goods which were sold by it. The above discussion in the appellate order has already revealed that the circular transactions of purchase and sales have resulted into inflated purchases in the hands of the assessee company by an amount of Rs. 20,35,94,402/-. It is to be noted that at no point of time, the assessee is denying the same, however, it is taking frivolous explanations to justify its act. In no circumstances bona fides of the assessee company can be established as it was a pre-planned action undertaken by the assessee company. In these circumstances, I do hereby add an amount of Rs.20,35,94,402/- to the income of the assessee. In this case, notice of enhancement has already been given as per Section 251 (2) of the Income Tax Act, 1961 vide letter dated 24.12.2019. Therefore, a total addition of Rs.20,35,94,402/- is hereby made to the income of the assessee.”

13. Assailing the aforesaid action of the Ld. CIT(A) enhancing the addition, the Ld. AR brought to our notice the following facts which were brought to the notice of Ld. CIT(A).

1. United Teleservices Limited sold Gionee Mobile Phone through HSS to Zeniak Innovation India Limited of Rs. 103,52,77,646 (Only Materials Value).

Custom duty paid by Zeniak 'Innovation India Limited of Rs.15,36,36,925.00

Purchase Price in the books of M/s. Zeniak Innovation India Limited Rs. 118,89,14,571.00

2. Zeniak Innovation India Limited sold to Infobitz India of Rs. 123,66,82,934.00 .

3. Infobitz India sold to United Teleservices Limited of Rs. 123,88,72,048.00.”

14. Our attention was drawn to the following facts which was noted by the Ld. CIT(A) while issuing show cause notice:

<i>Goods in the hands of United Teleservices Ltd.</i>	<i>Rs. 103,32,77,646/-</i>
<i>Custom duty paid by Zeniak Innovation India Ltd.</i>	<i>Rs. 15,36,36,925/-</i>
<i>Otherwise the cost what have been paid by UTL</i>	<i>Rs. 118,89,14,571/-</i>
<i>Same goods purchased by UTL after circular motion from Infobiz India at</i>	<i><u>Rs. 123,88,72,048/-</u></i>
<i>Total inflated purchase</i>	<i>Rs.4,99,57,477/-</i>

15. We note that the assessee has brought to the notice of the Ld. CIT(A) the following facts in respect of this issue:

“Zeniak Innovation India Limited is our sister concern, they have filed income tax return after paid income tax is more than Rs. 1.58 cr. for the financial year 2015-2016, net profit had been arrived near about Rs. 5 crores because only for circulated of goods.

We , everybody know about West Bengal Value Added Tax Act 2003 , when we sale goods to the customer then we are adding value (Profit) with actual purchase price and harged Tax.

Sale Price = Purchase Price + Value (Profit)

Billing Price = Sale Price + Tax (Value Added Tax)

This is the main reason to increase the purchase price from Infobitz India.

Further we inform you that you have verbally committed to us during the hearing that you will not be added with our income for the aforesaid financial year. We have not intentionally done the circular movement of goods, we are unable to run the business in absence of materials because we could not import the materials due to online waybill benefit, The Joint Commissioner of Commercial Tax officer stop the online way bill system due to tax default .

Further we inform you that M/s. Zeniak Innovation India Limited also have paid direct expenses of Rs, 95, 75, 080. regarding

i. Airport Authority of India	Rs. 17,51,945.00
ii. Mise Expenses- Clearing Agent	Rs. 70,18,459.00
iii. Clearing Agent Commission	Rs. 8,04,676.00
Total	Rs. 95,75,080.00

You are requested not to added back the aforesaid matter, we would not be bear the tax burden, our company business already way of shutdown due to financial crisis. Gionee Mobile Chief has been closed the business in china , Our Company had been claimed more than Rs. 35 crores regarding expenses which we already paid towards RSP salary, share of marketing expenses, share of tax portion, distributors claimed. They have not given any single amount to our company against claimed. We have Income Tax filed loss of Rs. 6,66,29,797.00 for the financial year 2018-2019 and loss booked for the current financial year of Rs.”

16. Further we note that the assessee has brought to the notice of the Ld. CIT(A) the following more facts:

“This is to inform you that the aforesaid inflated purchases has come only for value added with purchase price as per WB VAT Act 2003. Zeniak Innovation India imited is a registered dealer under WB VAT Act 2003 . The registered dealer can not be sold any goods without charged VAT. This is the main reason for inflated purchase price.

Further we informed you that our sister concern M/s Zeniak Innovation India Limited has been paid VAT of Rs. 19,12,20,325 (Nineteen Crore Twelve Lakh Twenty Thousand Three Hundred Twenty Five) out of which Rs. 16,28,89,436 vat paid only for High-sea purchase from mother concern M/ s United Teleservices Limited for the financial year 2015-2016 and also vat paid of Rs. 6,08,77,316 for the financial year 2014-2015

Kindly note Sir, promoter and directors of the both company were same on that period, entire business of the both companies run but the same directors. We have noticed that double taxation has been occurred on that time because tax paid by the both company on the same goods and same quantity in West Bengal only reason for unavailability of e-waybill , we were unable to import mobile phone from china for the

aforesaid period in absence of e-waybill. The authority of the West Bengal Value Added Taxes had been deselected of e-waybill system due tax default.

Further, we inform you that the company M/ s Zeniak Innovation India Limited has paid Income Tax on the profit which was arrived for sale of high sea goods. The company already paid Income Tax on the aforesaid inflated purchase . So, if you added the aforesaid inflated purchase with taxable income then it will double taxation charged because our sister concern already paid Income Tax and filed Income Tax return and also done tax audit for the aforesaid period. CBDT can not be denied state tax because the Constitution of India establishes a federal structure to the Indian Government, declaring it to be a " Union of States" Part XI of the Indian constitution specifies the distribution of legislative, administrative and executive powers between the central government and the State of Indict .

You are request not to added back the aforesaid matter, because our company business already way of shutdown due to financial crisis. We could not recover the money from Syntech Technology (HK) Limited, mother Company of Gionee mobile which we were claimed against expenses and also not recover money from sundry debtors against mobile sale due to unavailable market support finally they have not given any single amount to us against aforesaid claimed."

17. The Ld. AR drew our attention to the page 28 of the paper book which shown the statement of financial implication of sale to the sister concern which is as under:

UNITED TELESERVICES LTD		
ASSESSMENT YEAR: 2016-2017		
STATEMENT OF FINANCIAL IMPLICATION OF SALES TO THE SISTER CONCERNS		
Sl.No.	Particulars	Amount (Rs.)(Crores)
A.	Material value of Goods sold to M/s Zeniak Innovation (I) Ltd	103.53
B.	Other costs by Zeniak	
	1. Customs Duty	0.15
	2. Direct Expenses	0.96
	3. VAT	
	(out of total VAT paid of Rs. 19.12 cr, amount attributable to purchases from assessee company is Rs. 16.29 crore)	16.29
		17.4
C.	Income offered to tax by Zeniak (Proportionate)	
	Rs. 4.94cr x 104/180 (Purchases from assessee / total purchases)	2.85
D	2% estimated overhead cost of sister concerns (2% of Rs. 104 cr.)	2.08
		125.86

18. We have heard both the parties and perused the records. We note that the assessee is into the sales of Gionee Mobiles (China) and it has several dealers and agencies in India for the sale of these mobiles which is manufactured in China. According to assessee, the reason for doing re-purchase of goods was due to de-selection of the assessee in the e-way bill system because of certain issues with the VAT Authorities [relating to payment of VAT and non-filing of VAT returns.] According to assessee, though it paid all the outstanding taxes and returns were filed in respect of VAT and which fact was brought to the notice of the VAT authorities vide letter dated 18.08.2015 and 11.02.2016 (refer to pages 30 and 31 of paper book), however, the request made to re-select the assessee on the on line e-way bill system

was not done and, therefore, the assessee had no option but to re-route the transactions through its sister concerns M/s. Zeniac Innovation India Ltd. which was registered dealer with the Commercial Department. It is noted that assessee made purchases of Gionee Cell Phones of China at the cost of Rs.102.53 cr. (details refer to page 34 of paper book) and made high sea sales to M/s. Zeniak Innovation India Ltd. (sister concern) at Rs.103.52 cr. (details refer to page 33 and 34 of paper book). According to assessee, the resultant profit of Rs.99.69 lakhs was offered to tax (computation, final accounts including ITR acknowledgment are available at page 1 to 11 of the paper book). The Ld. AR brought to our notice that this profit was separately reflected under the head 'other income' under broad head "Revenue from Operation"(note 14 to P&L Account at page 9). It was brought to our notice that while purchasing the goods by the sister concern they have incurred the following direct expenses also:

(a)	Custom Duty	Rs.15,36,36,925/-
(b)	Direct Expenses like Payment to Airport Authority, Clearing Agents etc.	Rs. 95,75,080/-
(c)	VAT	<u>Rs.16,28,89,436/-</u>
		Total Rs.32,61,01,441/-

19. Thus the total expenses as above to the tune of Rs. 32,61,01,441/- was additionally incurred on the goods. According to him, the sister concerns (M/s. Zeniac Innovation India Ltd.) have purchased from the assessee at high seas at Rs.103.52 cr. and incurred additional cost of Rs.32.61 cr resultant cost comes to around Rs.136 cr. Whereas the repurchase cost of the assessee from M/s Infobitz India Ltd was at Rs,123.88 cr. as noted by the Ld. CIT(A) at page 13 of the impugned order. So, according to the Ld. AR, there is no inflated purchase as alleged by the Ld. CIT(A).

20. Further, according to the Ld. AR, the M/s. Zeniak Innovation India Ltd is a registered dealer under the West Bengal VAT Act, 2003 and has paid VAT of Rs.19,12,20,325/- which includes Rs.16,28,89,436/-. VAT paid for the high sea purchase from the assessee the mobiles for FY 2015-16 and also VAT paid of

Rs.6,08,77,316/- for the FY 2014-15. According to the Ld. AR, promoter and directors of both the companies were same during that period and the entire business of both the companies were run by the same directors and since the indirect taxes has already been levied and paid by the sister concern and once this figure is deducted it is not more than the purchase price of the assessee i.e. Rs.123 cr., therefore, according to him, there is no inflated purchase as alleged by the Ld. CIT(A). From the discussion of the aforesaid facts we are of the opinion that the Ld. CIT(A) has not enquired properly which fact is discernible from the show cause notice wherein the Ld. CIT(A) gave enhancement notice to assessee only alleging total inflated purchase to the tune of Rs.4.99 cr. However, after receiving replies of assessee (supra), the Ld. CIT(A) has made an addition of Rs.20,35,94,402/-. According to us, the action of the Ld. CIT(A) is bad for not conducting proper enquiry and for non-application of mind. Therefore, we set aside the order of the Ld. CIT(A) and remand this issue to the file of AO for verification of the details given (supra) and if the assessee has not inflated any purchase as contended by it, then no adverse view may be taken. With the aforesaid observation, we direct the AO to enquire into this limited issue raised by the Ld. CIT(A) and the assessee is directed to produce all documents pertaining to this issue to the AO and the AO to decide in accordance to law.

21. In the result, the appeal of assessee is allowed for statistical purposes.

Order is pronounced in the open court On 17th February, 2021.

Sd/-
(J.S. Reddy)
Accountant Member

Sd/-
(A. T. Varkey)
Judicial Member

Dated: .02.2021

JD, Sr. PS

Copy of the order forwarded to:

1. Appellant- M/s. United Teleservices Ltd., C/o Subash Agarwal & Associates, Advocates, Siddha Gibson, 1, Gibson Lane, Suite 213, 2nd floor, KJolkata-700 069.
2. ACIT, Circle-12(2), Kolkata.
3. The CIT(A)- 4, Kolkata (sent through e-mail)
4. CIT- , Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar