

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH 'E' : NEW DELHI)**

**BEFORE SHRI KULDIP SINGH, JUDICIAL MEMBER
and
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER**

(THROUGH VIDEO CONFERENCE)

**ITA No.3311/Del./2017
(Assessment Year : 2012-13)**

DCIT, Circle 18 (1), vs. M/s. N E Television Network Pvt. Ltd.,
New Delhi. 7C, Doctor's Lane Gole Market,
New Delhi – 110 001.

(PAN : AACCN0567G)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : None

REVENUE BY : Shri Gaurav Pundir, Senior DR

Date of Hearing : 22.09.2021

Date of Order : 13.10.2021

ORDER

PER KULDIP SINGH, JUDICIAL MEMBER :

Appellant, DCIT, Circle 18 (1), New Delhi (hereinafter referred to as 'the Revenue') by filing the present appeal sought to set aside the impugned order dated 10.03.2017 passed by the Commissioner of Income - tax (Appeals)-33, New Delhi qua the assessment year 2012-13 on the grounds inter alia that:-

“1. Whether on facts and in circumstances of the case, the Ld. CIT(A) is legally justified in deleting addition of Rs.2,24,00,000/- on account of unexplained trade

receivable for want of proper enquiry by the Assessing Officer (the AO) but without making enquiry or directing further enquiry u/s 250(4) of the Income Tax Act, 1961 (the Act) as laid down by Hon'ble Delhi High Court in case of CIT vs Jansampark Advertising and Marketing (P) Limited (2015) 375 ITR 373?

2. Whether on facts and in circumstances of the case, the Ld. CIT(A) is legally justified in deleting addition of Rs.2,24,00,000/- on account of unexplained trade receivable in his one line order by solely relying on self-serving claim of the assessee and without recording reasons for reaching the conclusion?

3. Whether on facts and in circumstances of the case, the Ld. CIT(A) is legally justified in deleting disallowance of depreciation of Rs.28,76,386/- made by the Assessing Officer (the AO) on the ground that the assets were not put to use during the year under consideration without considering findings of facts as recorded by the AO and without recording his own findings on use of the asset?

4. Whether on facts and in circumstances of the case, the Ld. CIT (A) is legally justified in deleting addition of Rs.2,24,00,000/- and disallowance of depreciation of Rs.28,76,386/- by accepting self-serving new claims and documents filed by the assessee even when the assessee had not fulfilled conditions as laid down under Rule 46 A of the Income Tax Rule, 1962 (the Rule) and without providing opportunity of being heard to the AO?"

2. Briefly stated the facts necessary for adjudication of the controversy at hand are : Assessee is a satellite operating company running a satellite TV channel in the name of NE Wi Fi, formerly called NE TV. During the scrutiny proceedings, Assessing Officer (AO) noticed from the financials of the assessee company that sale consideration during the year under assessment was Rs.96,62,257/- whereas trade receivables had increased from Rs.4.98 crores to

Rs.7.22 crores. Declining the contentions raised by the assessee that increase in debtors was about Rs.1 crore and during the year, the debtors of the assessee company had made payment to one of the assessee's group companies, AO made addition of Rs.2,24,00,000/- on the ground that no supporting evidence has been brought on record by the assessee company to prove its case. AO has also made addition of Rs.28,76,386/- by way of disallowance of claim of depreciation for want of any explanation by the assessee company and thereby assessed the total income at Rs.3,03,48,812/-.

3. Assessee carried the matter before the Id. CIT (A) by way of filing appeal who has deleted the addition by partly allowing the appeal. Feeling aggrieved, the Revenue has come up before the Tribunal by way of filing the present appeal.

4. Assessee has not preferred to put in appearance despite issuance of the notice and consequently, we proceeded to decide the present appeal with the assistance of the Id. DR as well as on the basis of documents available on the file.

5. We have heard the Id. Departmental Representative for the Revenue/appellant to the appeal, gone through the documents relied upon and orders passed by the revenue authorities below in the light of the facts and circumstances of the case.

GROUND NO.1 & 2

6. Undisputedly, assessee company has not brought on record any supporting evidence in support of its explanation during the assessment proceedings. It is also not in dispute that by examining the evidence brought on record by the assessee company before the Id. CIT (A), no remand report from the AO has been called.

7. In the backdrop of the aforesaid undisputed facts, when we examine the impugned order passed by the Id. CIT (A) so far as addition of Rs.2,24,00,000/- on account of unexplained trade receivables is concerned, no reason for granting relief to the assessee company has been given by the Id. CIT (A) which is apparent from the findings returned by the Id. CIT(A) in paras 6.2.2 & 6.3 of the impugned order, which are as under :-

“6.2.2 The appellant has further explained as to how the trade receivables considered good in the previous year have turned to 'other debts' during this year on account of difference of period of standing.

6.3 I have considered the action of the Assessing Officer and the submissions of the appellant. I agree with the submission of the appellant that the A.O. has considered only one part of the total debtors i.e. more than six months. From the assessment order it is apparent that the Assessing Officer has not adequately investigated the issue before arriving at the conclusion. In the light of detailed explanations offered by the appellant, the addition is unsustainable and is hence deleted.”

8. Bare perusal of the aforesaid findings goes to prove that when no evidence has been given by the assessee company during the assessment proceedings and no remand report has been called, and accepting the contentions of the assessee as a gospel truth without conducting any enquiry is not sustainable in the eyes of law. Findings returned by the Id. CIT (A) are cryptic and without any reasons, hence set aside. So, this issue is remitted back to the Id. CIT (A) to decide afresh after examining all the evidences brought on record by the assessee during the first appellate proceedings by passing a reasoned order. Consequently, grounds no.1 & 2 are determined in favour of the Revenue for statistical purposes.

GROUND NO.3 & 4

9. So far as deletion of disallowance of depreciation amounting to Rs.28,76,386/- is concerned, it is the case of the assessee company that no new addition to the fixed assets has been made during the year under consideration. On the other hand, AO disallowed the depreciation on the ground that assets were not put to use during the year.

10. Assessee has filed the details of date of purchase of assets before the Id. CIT (A) which is as under :-

Particulars	Amount	Date of purchase	Remarks
Building	4,400,000	25.10.2004	Premises is being used as Studio Set ups and collection and production of media content for the channel.
Computers	29,885,834	15.04.2006	Media Equipment comprising of Servers, Desktop and other storage equipment used for the business of the assessee.
Furniture & Fix.	102,890	25.01.2006	Used for the business of the assessee.
Office Equipments	175,500	15.04.2007	Used for the business of the assessee.
Plant & Machinery	35,443,035	03.04.2005	Satellite Equipments and Plant & Machinery for the Production of Content and distribution of news for the business of the assessee.
Total	80,007,259		

11. Ld. CIT (A) deleted the addition by returning following findings :-

“7.4 I have considered the action of the Assessing Officer and the submissions of the appellant. The Assessing Officer has made the addition without considering assessee’s reply dated 10.03.15. On examination of the details submitted by the appellant, I find that no new addition to the fixed assets is made during the year. The fixed assets on which depreciation has been claimed were purchased between 2004 and 2007 i.e. 5 to 7 years back. As the appellant has a turnover of 96.62 lakhs during the year, the conclusion of the Assessing Officer that the assets were not put to use has no basis. The same cannot be upheld. The addition is deleted.”

12. We are of the considered view that when the financials of the assessee company are audited one u/s 44AB of the Act which has not been disputed by the AO and date of purchase of the assets has been brought on record which have not been purchased during the year under assessment as is evident from the table extracted in preceding para no.10, we find no illegality or infirmity in the findings returned by the dl. CIT (A). However, deletion of addition of Rs.28,76,386/- is subject to the verification by the AO as to the date of purchase of the assets as claimed by the assessee. Consequently, Grounds No.2 & 3 are determined against the Revenue.

13. Resultantly, the appeal filed by the Revenue is partly allowed for statistical purposes.

Order pronounced in open court on this 13th day of October, 2021.

**Sd/-
(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER**

**sd/-
(KULDIP SINGH)
JUDICIAL MEMBER**

**Dated the 13th day of October, 2021
TS**

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT(A)-33, New Delhi.
- 5.CIT(ITAT), New Delhi.

**AR, ITAT
NEW DELHI.**