

आयकर अपीलिय अधिकरण, 'सी' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'C' BENCH, CHENNAI
श्री वी दुर्गा राव न्यायिक सदस्य एवं श्री जी. मंजुनाथा, लेखा सदस्य के समक्ष
Before Shri V. Durga Rao, Judicial Member &
Shri G. Manjunatha, Accountant Member

आयकर अपील सं./I.T.A. No.177/Chny/2021
निर्धारण वर्ष/Assessment Year: 2015-16

Craftsman Automation Ltd.,
'Senthel Towers', 4th Floor,
1078, Avinashi Road,
Coimbatore 641 018.

Vs. The Assistant Commissioner of
Income Tax,
Corporate Circle 2,
Coimbatore 641 018.

[PAN:AABCC2461K]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri R. Vijayaragahavan, Advocate
प्रत्यर्थी की ओर से/Respondent by : Shri M. Rajan, CIT
सुनवाई की तारीख/ Date of hearing : 08.03.2023
घोषणा की तारीख /Date of Pronouncement : 24.03.2023

आदेश /O R D E R

PER V. DURGA RAO, JUDICIAL MEMBER:

This appeal filed by the assessee is directed against the order of the Id. Principal Commissioner of Income Tax-1, Coimbatore, dated 30.03.2021 relevant to the assessment year 2015-16 passed under section 263 of the Income Tax Act, 1961 ["Act" in short].

2. The appeal filed by the assessee is delayed by nine days in filing the appeal due to outbreak of Covid-19 pandemic and accordingly, the delay in filing the appeal is condoned and admitted for adjudication.

3. Brief facts of the case are that the assessee filed its return of income for the assessment year 2015-16 on 06.01.2016 declaring total income of ₹. Nil after claiming Chapter VIA deduction under section 80JJAA amounting to ₹.5,81,82,038/- under normal provisions of the Act and ₹.51,45,65,615/- under MAT provisions. The case was selected for scrutiny through CASS and notice under section 143(2) of the Act dated 20.09.2016 was issued and served on the assessee. In response to the notices, the assessee's Chief Financial Officer A appeared and furnished the details as called for. Thereafter, the assessment was completed under section 143(3) of the Act dated 18.02.2019.

3.1 Subsequently, the Id. PCIT issued a show-cause notice dated 04.03.2021 under section 263 of the Act calling for explanation from the assessee on the following aspects:

3. In the computation statement of total income (summary of total income), you have claimed additional depreciation of Rs.22,25,61,571/- and this claim was confirmed by you in the Income tax Return for the A.Y.2015-16. The break up details of this claim under different block of assets was filed in a separate statement under Depreciation for income tax purpose. Out of the above claim of additional depreciation, the claim of additional depreciation relating to office equipment(Rs.33,98,006) and vehicles (Rs.3,17,147) was disallowed by the Assessing Officer vide order dt.18.02.2019 as the claim of these assets were not eligible and balance claim of additional depreciation was allowed in that order.

On verification it is seen that you have claimed additional depreciation of Rs.4,11,08,243/- relating to fixed assets that were put into use during the previous A.Y.2014-15. As per the provisions of Section 32(1)(iia) of the Income tax Act, the claim of additional depreciation relating to the fixed assets that were put into use during the previous

assessment year is not an allowable deduction. Such type of claim is allowable only from A.Y.2046-17 as the concerned section was amended only with effect from A.Y.2016-17. Therefore the allowance of additional depreciation of Rs.4,11,08,243/- relating to fixed assets that were put into use during previous A.Y.2014-15 in the scrutiny assessment order requires disallowance. The Assessing Officer failed to examine the point mentioned above rendering the assessment order erroneous and prejudicial to the interest of revenue.

4 *Further, in Note 10-Tangible and Intangible assets to the Balance sheet as on 31.03.2015, the addition towards freehold land during the previous year 2014-15 relevant to A.Y.2015-16 was exhibited at Rs.5,36,16,242/-. In your letter dated 27.10.2017, you have furnished form 26QB details and explained to Assessing Officer by attaching challan number 64871 stating that you have invested in land in financial year 2014-15 and the purchase value of the land was Rs.274 lakhs for which TDS made at one percent which reflected in Form 26QB. Further in your letter dt.21.11.2017 you have explained the value of addition at Rs.3,00,02,100/- including stamp duty, registration fee and other connected expenditure towards purchase of that freehold land.*

For the freehold land addition of Rs.5,36,16,242/- exhibited in Note Tangible and Intangible assets of Balance Sheet, you have filed documentary proof to the extent of Rs.3,00,02,100/- only and for the balance addition amount of Rs.2,36,14,142/-, the details were not available in records. Unproved claim of addition to freehold land attracts provisions of Section 69C of the Income tax Act.

5. *For the above mentioned reasons, the assessment order made for the A.Y.2015-16 is found to be erroneous and prejudicial to the interests of the revenue as the order has been passed without making verification which ought to have been made hence necessitating invoking the provisions u/s.263 of the Income tax Act, 1961 to remedy the loss of the revenue. It is thereby, proposed to invoke provisions of Section 263 of the Income tax Act.*

6. *You are hereby, afforded an opportunity of being heard and to show-cause as to why the provisions of Section 263 of the IT Act should not be invoked on the order under consideration.*

3.2 After considering the submissions of the assessee, the Id. PCIT has pointed out that the Assessing Officer has not made proper enquiry on various aspects as show-caused the assessee. Therefore, the

assessment order passed by the Assessing Officer is erroneous and prejudicial to the interest of Revenue and directed the Assessing Officer to redo the assessment afresh after giving an opportunity to the assessee.

4. On being aggrieved, the assessee carried the matter in appeal before the Tribunal. With regard to the claim of additional depreciation, the Id. Counsel for the assessee has heavily relied on the decision in the case of Brakes India Ltd. v. DCIT in T.C. A. No. 551 of 2013 dated 14.03.2017, which was duly affirmed by the Hon'ble Supreme Court in S.L.P.(C) No. 33755/2017 dated 24.09.2018. So far as investment on acquisition of land, by overlooking the facts on record, merely based on details available from Form 26QB, which was limited in its application to certain limit only, the Id. PCIT has erroneously held that the Assessing Officer has not examined the unproved claim of addition to freehold land as not details were available on record for the value addition amount of ₹.2,36,14,142/-, which attracts the provisions of section 69C of the Act without giving proper findings. Thus, the Id. Counsel for the assessee prayed for quashing the revision order passed under section 263 of the Act.

5. On the other hand, the Id. DR supported the order passed by the Id. PCIT.

6. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below. So far as allowance of additional depreciation is concerned, the Id. PCIT was of the opinion that the assessee is not eligible to claim additional depreciation of ₹.4,11,08,243/- relating to the fixed assets that were put into use during the previous assessment year and the same is allowable only from the assessment year 2016-17 consequent amendment to sub-section (iia) to section 32(1) of the Act and not allowable retrospectively. In view of the law down by the Hon'ble Jurisdictional High Court, which was duly affirmed by the Hon'ble Supreme Court by dismissing the SLP(C) filed by the Department that amendment to sub-section (iia) to section 32(1) of the Act has retrospective application, we are of the considered opinion that the Assessing Officer has rightly allowed the claim of additional depreciation to the assessee. Therefore, the Id. PCIT was not correct in holding that the claim is only allowable prospectively and thus, the order passed under section 263 of the Act on this issue is liable to be quashed.

7. The next observation of the Id. PCIT was that in Note 10-Tangible and Intangible assets to the Balance sheet as on 31.03.2015, the addition towards freehold land during the previous year 2014-15 relevant to A.Y.2015-16 was exhibited at ₹.5,36,16,242/-. During the course of

assessment proceedings, the assessee has furnished form 26QB details and explained to Assessing Officer by attaching challan number 64871 stating that you have invested in land in financial year 2014-15 and the purchase value of the land was ₹.274 lakhs for which TDS made at one percent which reflected in Form 26QB. Further, the assessee has explained to the Assessing Officer that the value of addition at ₹.3,00,02,100/- including stamp duty, registration fee and other connected expenditure towards purchase of that freehold land. For the freehold land addition of ₹.5,36,16,242/- exhibited in Note Tangible and Intangible assets of Balance Sheet, the assessee filed documentary proof to the extent of ₹.3,00,02,100/- only before the Assessing Officer and for the balance addition amount of ₹.2,36,14,142/-, the details were not available on records. Therefore, the Id. PCIT was of the opinion that the unproved claim of addition to freehold land attracts provisions of section 69C of the Act and the Assessing Officer has not considered the above fact while concluding the assessment.

8. In the grounds of appeal, the assessee has raised a specific ground No. 4 that the order of the Id. PCIT is unsustainable in law in so far as there is no finding given by him that the addition of ₹.2,36,14,142/- to the freehold land was not duly recorded in the books of the assessee, which

is *sine qua non* for invoking section 69C of the Act. It is apparent that the Assessing Officer has not properly examined the details furnished by the assessee and gave his findings over the balance addition amount of ₹.2,36,14,142/- to the freehold land. Considering the above, observations of the Id. PCIT as well as contentions of the Id. Counsel for the assessee, we are of the considered opinion that the Assessing Officer shall re-examine and decide afresh the above issue in accordance with law without the influence of the revision order of the Id. PCIT by affording an opportunity of being heard to the assessee.

9. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on 24th March, 2023 at Chennai.

Sd/-
(G. MANJUNATHA)
ACCOUNTANT MEMBER

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Chennai, Dated, 24.03.2023

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to: 1. अपीलार्थी/Appellant, 2. प्रत्यर्थी/ Respondent, 3. आयकर आयुक्त (अपील)/CIT(A), 4. आयकर आयुक्त/CIT, 5. विभागीय प्रतिनिधि/DR & 6. गार्ड फाईल/GF.