



ITA No.2336/Mum/2012
Summit Securities Ltd.
Assessment Year :2005-06

आयकर अपीलीय अधिकरण “ई” न्यायपीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“E” BENCH, MUMBAI

माननीय श्री महावीर सिंह, उपाध्यक्ष एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON’BLE SHRI MAHAVIR SINGH, VP AND
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं./ I.T.A. No.2336/Mum/2012
(निर्धारण वर्ष / Assessment Year:2005-06)

Summit Securities Ltd. <i>[Formerly known as KEC Inf. Ltd.]</i> 213, Bezzola Complex B-Wing, Sion-Trombay Road Chembur, Mumbai – 400 071	बनाम/ Vs.	Add. CIT-8(3) Aaykar Bhavan Mumbai.
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. AAACK-4279-J		
(पीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

Assessee by	:	Shri Ronak Doshi-Ld.AR
Revenue by	:	Shri Manjunatha Swamy-Ld. CIT DR

सुनवाई की तारीख/ Date of Hearing	:	05/10/2020
घोषणा की तारीख / Date of Pronouncement	:	05/10/2020

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. The aforesaid appeal is a recalled matter for limited purpose of adjudicating ground no. 4 since the appeal was earlier disposed-off vide Tribunal order dated 01/03/2018. However, it was pointed out by the assessee vide MA No. 582/Mum/2018 that Ground No. 4 of the appeal remained to be adjudicated. The application was accepted by the Tribunal vide order dated 13/11/2019 wherein the order was recalled for



the limited purpose of adjudicating Ground No.4. Accordingly, the appeal has come up for hearing before this bench. We have carefully heard the submissions made by rival representatives.

2. The Ground No. 4 which require our adjudication read as under: -

4. Disallowance of Provision on Foreseeable Losses Under Section 115JB of the Act:

- 1. On the facts and in the circumstances of the case and in law, the CIT(A) erred in confirming the action of the AO of disallowing the provision for project losses of Rs.2,01,01,000 in the computation of book profits under Section 115JB of the Act.*
- 2. The Appellant prays that the AO be directed to allow the provision for project losses in the computation of book profits under Section 115JB of the Act.*

3. The Ld. Authorized Representative for Assessee (AR), Shri Ronak Doshi, submitted that during assessment proceedings the assessee was saddled with disallowance of provision for unascertained liabilities for Rs.201.01 Lacs. The said disallowance was made while computing income under normal provisions as well as while computing Book Profits u/s 115JB. The Ld. CIT(A) confirmed the same against which the assessee preferred further appeal before this Tribunal by way of Ground Nos. 3 & 4. In Ground No. 3, the assessee contested confirmation of disallowance while computing income under normal provisions whereas by way of Ground No. 4, the assessee contested addition of said disallowance while computing Book Profits u/s 115JB. While disposing-off the appeal, Ground No.3 was allowed by the coordinate bench in assessee's favor vide paras 17 to 26 of the order dated 01/03/2018. However, Ground No. 4 remained to be adjudicated. The Ld. AR submitted that keeping in view the fact that Ground No.3 is in assessee's favor, consequentially, ground no. 4 is also to be decided in assessee's favor. The Ld. DR could not controvert the same. Nothing is on record to



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demonstrate that the aforesaid finding of Tribunal with respect to Ground No.3 has ever been reversed by any higher authority.

4. Upon perusal of the order dated 01/03/2018, it is quite discernible that a finding has been rendered by the bench in para 24 of the order that the determination of foreseeable loss was fair, proper and justified. Finally, the matter was concluded in assessee's favor in para 26 wherein it was held that claim of provision for foreseeable losses for Rs.201.01 Lacs was an allowable claim. This being so, the provisions could not be termed as unascertained liabilities for the purpose of computing Book Profits u/s 115JB. Therefore, the same was not to be added back while computing Book Profits u/s 115JB. We order so. Ground No.4 stands allowed in assessee's favor.

5. The assessee's appeal, stand allowed.

Order pronounced in the open court on 05th October, 2020.

Sd/-

(Mahavir Singh)

उपाध्यक्ष / **Vice President**

Sd/-

(Manoj Kumar Aggarwal)

लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 05/10/2020
Sr.PS, Jaisy Varghese

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त(अपील) / The CIT(A)
4. आयकरआयुक्त/ CIT- concerned
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File



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आदेशानुसार/ BY ORDER,

**उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकरअपीलीयअधिकरण, मुंबई / ITAT, Mumbai.**