Capital receipt credited to Profit and Loss account is part of book profit for MAT purposes

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In brief

Recently, the Bangalore Income Tax Appellate Tribunal ('Tribunal') held that where an item of income or expenditure was correctly disclosed in the P&L account as per Schedule VI of the Companies Act, 1956 ('Companies Act'), any disclosure in the Notes to Accounts in this regard could not be a basis for adjusting the book profit for the purposes of Section 115JB of the Income-tax Act, 1961 ('the Act'). The profit in the P&L account was not open to tinkering by the assessing officer or the assessee while computing book profit under Section 115JB.

In detail

Facts

During assessment year 2005-06, the assessee[1] got a remission of a bank loan liability. The assesse disclosed this as a credit to the P&L account as per the requirement of Schedule VI of the Companies Act. In the notes to accounts, the assessee disclosed the remission to be in the nature of capital receipt.

The assessee filed its return of income declaring 'Nil' income. A notice under Section 148 of the Act was issued to the assessee whereby the assessing officer (AO) sought to tax remission of loan liability by the bank under the provisions of Minimum Alternate Tax ('MAT').

The assessee contended before the AO that the remission was towards the principal. Therefore, it was not an 'income' and should not be considered for the purpose of computing book profit under Section 115JB. The AO rejected the assessee's contention. Upon appeal, the Commissioner of Income-tax (Appeals) (CIT (A)) rejected the assessee's contention by placing reliance on the Supreme Court (SC) decision in the case of Apollo Tyres[2].

Aggrieved with the CIT(A)'s decision, the assessee appealed to the Tribunal.

Issues before the Tribunal

- Whether such capital receipt credited to the P&L account should be considered as part of book profit under Section 115JB?

Assessee's contentions

- The assessee contended that remission of loan liability supported by disclosure in the notes to accounts could not be considered as income for book profits for MAT purposes. It relied on the Mumbai and Jaipur Tribunal decisions in Shivalik Venture P Limited *v.* DCIT[3] and ACIT *v.* Shree Cement Limited[4]
- A capital receipt disclosed in notes to accounts, should be excluded from the P&L account, relying on the Andhra Pradesh High Court decision in the case of CIT *v.* Nagarjuna Fertilizers & Chemicals Limited[5]

Revenue's contentions

- The Departmental Representative ('DR') argued that the amount of receipt under consideration

[1] TS-643-ITAT-2015

[2] [2002] 255 ITR 274 (SC)

[3] ITA No. 2008/MUM/2012 dtd. 19/08/2015

[4] ITA Nos. 614, 615 & 635/JP/2010 dtd. 09/09/2011

[5] ITTA No. 100 of 2003 dtd. 23/09/2014 AP

was credited to the P&L account and that the assessee has not disputed that the accounts were not in accordance with Schedule VI of Companies Act.

- Relying on the SC decision in the case of Apollo Tyres[2], the DR contended that the AO did not have the jurisdiction to alter the profit as per Schedule VI of the Companies Act, except for the adjustments as permitted under Explanation to Section 115JB.
- Therefore, the profit as per the P&L account prepared in accordance with Schedule VI of the Companies Act should be considered for the purposes of computing MAT.

Tribunal ruling

- The remission of loan liability was credited to the P&L account in accordance with Schedule VI of the Companies Act, and in compliance with mandatory Accounting Standards (AS 5).
- Disclosures by way of notes to accounts would not require any changes to the amount of profit disclosed as per the P&L account for the purpose of computing book profit for MAT.
- The Tribunal followed the view of the SC in Apollo Tyres[2] and upheld the CIT(A)'s order.

The takeaways

- The case of Shivalik Ventures[3] relied upon by the assessee saw a view taken by the Mumbai Tribunal wherein the expression 'shown in P&L' was to be understood as amount disclosed in the P&L account read along with the notes to accounts.
- The Bangalore Tribunal in the instant case has followed the SC decision in the case of Apollo Tyres[2], and held that such disclosure in the notes to account to be irrelevant for MAT purposes.
- Further, this ruling could be considered as a reiteration of the position that all receipts, including "Government Grants" credited to the P&L account, will have to be considered while computing book profit for the purposes of MAT.
- While there are contrary views at the Tribunal level, the SC decision in Apollo Tyres[2] is final in its application.

Let's talk

For a deeper discussion of how this issue might affect your business, please contact:

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