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**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

ITA No. 128 of 2015 (O&M)
Date of Decision: May 08, 2024

M/s Metlonics Industries (P) Ltd.

.....Appellant

Vs.

Commissioner of Income Tax, Chandigarh
and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Akshay Bhan, Senior Advocate assisted by
Mr. Alok Mittal, Advocate, for the appellant.

Mr. Vaibhav Gupta, Senior Panel Counsel,
for the respondents.

SANJEEV PRAKASH SHARMA, J. (ORAL)

The present appeal has been preferred by the appellant assailing the order dated 13.03.2015 passed by Income Tax Appellate Tribunal, Chandigarh, Bench 'A' (hereinafter for short 'ITAT'), who upheld Assessing Officer and dismissed the order of Commissioner of Income Tax (Appeal) with regard to the amount of Rs.1,80,00,000/- shown as credited in the books of accounts on 31.03.2010 and shown to have been reversed on 01.04.2010.

2. While admitting the appeal vide order dated 07.01.2016, the following substantial questions of law have been raised:-

(I) Whether in facts and circumstances of the case, the ld. Authorities below erred in law in making the provisions of section 68 of the Act applicable to the assessee in a mechanical manner without controverting the fact finding in favour of the assessee?

(ii) Whether income tax is on real income ascertained as per the provisions of the Act and not on hypothetical income?

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authenticity of this
order/judgment



3. Learned counsel for the appellant submits that in terms of Section 68 of the Income Tax Act, the said entries cannot be said to be the income for the previous year as it was wrongfully entered and reversed immediately on the next day. He further submits that one of the Directors had issued cheque for Rs.1,80,000,00/-, which was returned back on the next day.

4. Section 68 of the Act provides as under:-

“Cash credits.

68. *Where any sum is found credited in the books of an assessee maintained for any previous year, and the assessee offers no explanation about the nature and source thereof or the explanation offered by him is not, in the opinion of the [Assessing] Officer, satisfactory, the sum so credited may be charged to income-tax as the income of the assessee of that previous year:*

Provided *that where the sum so credited consists of loan or borrowing or any such amount, by whatever name called, any explanation offered by such assessee shall be deemed to be not satisfactory, unless,-*

(a) the person in whose name such credit is recorded in the books of such assessee also offers an explanation about the nature and source of such sum so credited; and

(b) such explanation in the opinion of the Assessing Officer aforesaid has been found to be satisfactory:

Provided further that] *where the assessee is a company (not being a company in which the public are substantially interested), and the sum so credited consists of share application money, share capital, share premium or any such amount by whatever name called, any explanation offered by such assessee-company shall be deemed to be not satisfactory, unless-*



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(a) the person, being a resident in whose name such credit is recorded in the books of such company also offers an explanation about the nature and source of such sum so credited; and

(b) such explanation in the opinion of the Assessing Officer aforesaid has been found to be satisfactory:

Provided also *that nothing contained in the first proviso [or second proviso] shall apply if the person, in whose name the sum referred to therein is recorded, is a venture capital fund or a venture capital company as referred to in clause (23FB) of section 10.]”*

5. In view of the above, it is apparent that there is no question of *mens rea* involved to be examined by invoking the aforesaid provision. We cannot lose sight of the fact that once amount is credited in the books of accounts and the same returned on the next day, realising that too only on 31st March i.e. last day of the assessment year, would be including of the said amount as part of the income of that year. Returning back the same on the next day would not result in the income of the previous year being reduced. If we allow such entries, one cannot lose sight that the assessee may make fictitious entries and return the same on the next day for taking tax benefits. There may be cases where the entries in the books of accounts may not be reflected in the bank account as the entries may be made in cash or in cheque which may not be ultimately encashed. We, therefore, answer question no. 1 in favour of the revenue.

6. So far as question no. 2 is concerned, it is now trite law that the income to be assessed and ascertained under the provisions of the Act is the accrued income and not the actual income which the assessee may have acquired in a financial year. Therefore, the actual income of the assessee which accrues to him during the financial year, if there is an entry of any amount in the books of accounts as on 31st March, the same would be included as income of the



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assessee, even if he/ she may not have encashed the cheque on that day. The answer to question no. 2 is, therefore, in favour of the revenue. We do not find any more question of law required to be answered.

- 7. The appeal is dismissed.
- 8. All pending applications, if any, stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

May 08, 2024
sonia arora/vs

Whether speaking/reasoned: Yes / No
Whether reportable: Yes / No