



\$~66

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ ITA 29/2024

SIR SHADILAL ENTERPRISES LIMITED Appellant

Through: Mr. Inder Paul Bansal and Mr.
Vivek Bansal, Advocates.

versus

THE DEPUTY COMMISSIONER OF INCOME TAX
CIRCLE 23 (2), NEW DELHI Respondent

Through: Mr. Puneet Rai, Sr. SC with
Mr. Ashvini Kumar, SC and
Mr. Rishabh Nangia, SC.

CORAM:

HON'BLE MR. JUSTICE YASHWANT VARMA

**HON'BLE MR. JUSTICE PURUSHAINDR KUMAR
KAURAV**

ORDER

% **10.01.2024**

CM APPL. 1612/2024 (Exemption)

Allowed, subject to all just exceptions.

The application stands disposed of.

ITA 29/2024

1. While considering the issue of capital gains and the liability that could have been placed upon the appellant in terms of Section 50B of the Income Tax Act, 1961, we find that the Assessing Authority had observed as under:-

“2.3.1. Following points needs to be considered while arriving at sale consideration price of UNN Sugar Complex:

- a. As per Definitive Agreement for sale of M/ s UNN Sugar Complex the consideration for the transfer is (a) Rs. 75,50,00,000 /- (Rupees Seventy Five Crores Fifty lacs



only) and (b) the value of Net Current Assets on the transfer date as determined with Clause 6.3 of the agreement

- b. as per sub-ledger of Control GL: 5201 mentioned above, the consideration received for slump sale of M/s Unn Sugar Complex, is Rs. 155,30,55,105.94 which includes value of net current assets.
- c. Page 2, 10 & e-stamp purchased for conveyance deed, all show the consideration price for UNN Sugar Complex at Rs. 75,50,00,000/-. Moreover, page-23 of conveyance deed (scanned at Page-16 of this order) clearly mentions modalities of payments of the purchase consideration, wherein it is mentioned that payments have been made by way of D.D./RTGS on various dates for aggregate lump sum consideration of Rs. 75.50 Cr.
- d. Sub-Ledger Control GL: 5201 Sundry Creditors for 01.01.2014 to 31.03.2015, shows all the transactions undertaken by the assessee with M/ s Superior Food Grains P. Ltd, the purchaser of sugar complex, during F.Y. 2014-15 relevant to A.Y 2015-16 Ledger entry dated 30.09.2014 bearing no 90243 is reproduced hereunder for ready reference

“30/09/14 13/ 90243 HY AMT OF PROFIT OS SALE OF JINN SUGAR UNIT 491922400.94”

The above entry shows that the assessee has itself computed the profit on sale of UNN Sugar Unit at Rs. 49,19,22,401/- but the same has not been, factored in by it while computing capital gain from sale of sugar unit.”

2. Our attention, however, has been drawn to page 326 of our electronic record and which would indicate a reversal of the entry of Rs. 49,19,22,400.94/- in the books of account of the assessee. According to learned counsel for the appellant, while this ground was duly pressed before the Income Tax Appellate Tribunal [“ITAT”], it has failed to either notice or consider the same. It is in the aforesaid backdrop that learned counsel makes a prayer for being accorded liberty to move the ITAT for the purposes of rectification.
3. In view of the aforesaid and while keeping all contentions of



respective parties open, we dispose of the appeal at this stage with liberty as prayed for.

YASHWANT VARMA, J.

PURUSHAINDRA KUMAR KAURAV, J.

JANUARY 10, 2024/ Neha/priya