



Dated: 27.08.2020

The Manager,
Corporate Relationship Department,
Bombay Stock Exchange Limited,
Phiroze Jeejeebhoy Towers, Dalal Street,
Mumbai – 400001

SCRIP CODE: 526407

Sub: Submission of Order Copy passed by Delhi Bench of the Tribunal incase of Ritesh Properties and Industries Limited under Regulation 30 of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015

Dear Sir/Madam,

With reference to subject captioned above please find enclosed herewith the Copy of Order passed by the Delhi Bench of the Tribunal in case of Ritesh Properties and Industries Limited ('the Company') for the assessment year 2007-2008 dismissing the appeal filled by the Revenue, and same is disclosed to Stock exchange under Regulation 30 of SEBI (Listing Obligations and Disclosures Requirements) Regulations, 2015. As the copy of order received from department on August 26, 2020, the same is attached along with this letter for the reference.

Kindly take the above in your records.

Thanking You,
Yours Faithfully,

For Ritesh Properties and Industries Limited


Tarandeep Kaur
Company Secretary

Encl as above:

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'F' NEW DELHI**

**BEFORE SHRI N. K. BILLAIYA, ACCOUNTANT MEMBER
AND
MS SUCHITRA KAMBLE, JUDICIAL MEMBER**

I.T.A. No. 3336/DEL/2011 (A.Y 2007-08)

(THROUGH VIDEO CONFERENCING)

ITO Ward-15(4), Room No. 223, C. R. Building New Delhi (APPELLANT)	Vs	Ritesh Properties & Industries Ltd. 11/5B, First Floor, Pusa Road New Delhi AAACR1437M (RESPONDENT)
---	----	---

Appellant by	Sh. Jagdish Singh, Sr. DR
Respondent by	Sh. Ajay Vohra, Sr. Adv & Sh. Rohit Jain, Adv

Date of Hearing	17.08.2020
Date of Pronouncement	24.08.2020

ORDER

PER SUCHITRA KAMBLE, JM

This appeal is filed by the Revenue against order dated 21/04/2011 passed by CIT(A)-XVIII, New Delhi for assessment year 2007-08.

2. The grounds of appeal are as under:-

1. *That on the facts and circumstances of the case and in law the Ld. CIT(A) erred in directing the AO to consider the revised computation filed by the assessee company claiming a deduction of Rs.9,00,00,000/- on account of revision of financial accounts.*
2. *That on the facts and circumstances of the case and in law the Ld. CIT(A) erred in not appreciating contents of the General Circular No. 1/2003 dated*

13.01.2003 issued by the Ministry of Finance and Company Affairs, which allows the company to reopen and revisit its account after their adoption in annual general meeting and filing with the ROC only in case of any technical requirement of any law. The assessee company did not put forward any such requirement of any law.

3. That on the facts and circumstances of the case and in law the Ld. CIT(A) erred in ignoring the comments of the auditor, Sh. S.B. Aggarwal, CA who has audited assessee's revised accounts, and has opined in the Auditor's report that the assessee cannot reopen and revisit its accounts once adopted by the shareholders at an AGM.

4. That on the facts and circumstances of the case and in law the Ld. CIT(A) erred in ignoring the fact that as per the section 139(5) of IT Act, the return of income can only be revised within one year from the end of the relevant Assessment Year or before the completion of the assessment, whichever is earlier. In the present case, therefore giving effect to Ld. CIT(A)'s directions would amount to violating the provisions of Section 139(5) of the Income Tax Act, 1961.

3. The assessee company entered into an agreement with M/s Ansal Properties and Infrastructures Ltd. for development and industrial and residential township on companies land at Ludhiana. The assessee filed its return of income on 30/10/2007 declaring total income of Rs. 1,00,800/-. During the year under scrutiny the business income of Rs. 8,56,39,658/- was set off against business losses. The assessee paid tax of Rs. 46,87,534/- u/s 115JB on books profit of Rs. 78,89,62,653/- after setting of brought forward business losses from it. The agreement entered with M/s Ansal Properties and Infrastructure Ltd. could not be implemented resulting thereby the proposed project of industrial and residential township redundant in July, 2009. In the meanwhile, the assessee Company had entered into an agreement to sell on pre-launch basis with M/s Estate Investment Solution and Rs. 9,00,00,000/-. On this account had been incorporated as sale in assessee's books of accounts. But as per the guidelines issued by the State Government of Punjab for Mega

Project, no money could be collected from the proposed buyers till such time layout/zoning plans are cleared from the competent authority. Therefore, the assessee company created the sale account and debited the account of M/s Estate Investment Solution and grouped under Sundry debtors. As the project become redundant, the management during the Financial Year 2008-09, decided to require its rights of the areas sold to M/s Estate Investment Solutions by mutually terminating the Agreement to sale. The cancellation of the Agreement to Sale has resulted into reduction in gross sale of Rs. 9,00,00,000/-. Though the cancellation of sales in respect of sales effected during the year under review has happened during the Financial Year 2008-09, the Company was advised that the cancellation effect in respect of the above transactions should be effected in the year of assessment only and not at the time when actual cancellation took place. Accordingly, the Company redrafted its financial statements as if the transaction for sale has not occurred at all. Consequently, during the year under consideration, sales had been reduced by Rs. 9,00,00,000/- and revised financial statements were prepared and got in audited and were duly approved by the Board of Directors of the Company. In view of the amendment to the financial statements of the Company for the financial year ended on 31st March, 2007, giving effect to the above-mentioned cancellation of transaction, company. The company has once again send the revised amended financial statements to the members of the company for their approval and in the forth coming annual general meeting which is scheduled to be held on 24th December, 2009. The management has revised the financial statements in accordance with the general Circular No. 1/2003 dated 13/1/2003 issued by the Ministry of Finance and Company Affairs permitting revision of financial statement in order to achieve the true and fair view under the changed circumstances as above. The management has relied on the interpretation of the said Circular that the proposed revision of the financial statements made in accordance with letter and spirit of the said Circular thereby the revision of financial statement is in accordance with the provisions of the Companies Act, 1956. The Assessing Officer observed that the audited

revised accounts including balance-sheet profit and loss account their schedules etc are not accepted. Thus, the Assessing Officer assessed the income of the assessee on the basis of its original accounts. The declared income from house property of Rs. 1,00,800/- and NIL business income after setting off brought forward business losses of Rs.8,57,40,458/- was accepted.

4. Being aggrieved by the assessment order, the assessee filed appeal before the CIT(A). The CIT(A) allowed the appeal of the assessee.

5. The Ld. DR submitted that the assessee should have not revised the audited accounts as their transaction has actually correctly notified in the original accounts. In-fact, even the auditor himself was not agreeing with the decision of the management to revise their accounts once adopted in AGM. Thus, the treatment given by the Assessing Officer were just and proper and the CIT(A) erred in directing the Assessing Officer to consider the revised computation filed by the assessee company claim a deduction of Rs. 9,00,00,000/- on account of revision of financial accounts by taking wrong interpretation of Circular No. 1/2003 dated 13/1/2003 issued by the Ministry of Finance and Company Affairs. The Ld. DR further submitted that as per Section 139(5) of the Income Tax Act, 1961, the return of income can only be revised within one year from the end of the relevant Assessment Year or before the completion of the assessment whichever is earlier.

6. The Ld. AR submitted that its audit account was revised and not the return of income as per Section 139(5) of the Income Tax Act. The revenue is not taking into consideration. The actual context of Circular No. 1 of 2003 as the said Circular is related to revised audit accounts and not revised return of income. The Ld. AR further submitted that the transaction with the Ansal Properties relating to proposed project of industrial and residential township was in that particular assessment year could not be implemented and thus pre-launch agreement which is banned by the guidelines of the State

Government of Punjab was not tenable during that particular assessment year/present Assessment Year 2007-08. The assessee with the full awareness of the company procedure has revised audit account through AGM as per the guidelines issued by Circular No. 1 of 2003 issued by Ministry of Finance and Company Affairs. Thus, the CIT(A) has rightly allowed the appeal of the assessee.

7. We have heard both the parties and perused the material available on record. It is pertinent to note that the assessee has revised the audited account and has given the relevant documentary evidence before the CIT (A) upon which the Assessing Officer has also commented through the remand report. The Assessing Officer has not pointed out any defects in the audited accounts which are allowed to be revised as per the guidelines issued by the Ministry of Finance and Company Affairs. Thus, the CIT(A) rightly held that the artificial and hypothetical income created by mere general entries which were subsequently reverse cannot be brought to tax. Besides that the assessee made the statement before us that the income derived from the said project in subsequent Assessment Years has been offered to tax by the assessee. Thus, the Revenue is not at loss at any point of time and hence the treatment given by the CIT(A) by directing the Assessing Officer to allow the claim of Rs. 9,00,00,000/- on account of revision of financial accounts is just and correct. The appeal of the Revenue is dismissed.

8. In result, the appeal of the Revenue is dismissed.

Order pronounced in the Open Court on this 24th Day of AUGUST, 2020

Sd/-

(N. K. BILLAIYA)
ACCOUNTANT MEMBER

Sd/-

(SUCHITRA KAMBLE)
JUDICIAL MEMBER

Dated: 24/08/2020
R. Naheed *

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR

ITAT NEW DELHI