

## **Profits, when co. was declared as sick, can't be set off with B/F loss or unabsorbed dep. for MAT purposes**

### **Facts of the case - Kannappan Textile Mill (P.) Ltd. v. ACIT - [2022] (Chennai - Trib.)**

The assessee was a corporate notified as a sick company registered with BIFR under the Sick Industrial Companies Act. Being a sick company, the provisions under section 115 JB did not apply to the assessee. However, during the relevant assessment year, positive book profits arose and the assessee attained the status of a non-sick company.

While computing the book profits as per 115JB, the assessee adjusted carried forward losses of earlier years without considering the book profit of years in which it was a sick company. During scrutiny proceedings, Assessing Officer (AO) denied the claim for brought forward losses contending that the losses should be first adjusted towards the book profits of years when assessee was sick Company.

On appeal, the CIT(A) confirmed the order of AO and the matter reached Chennai Tribunal.

### **Decision of the case:**

- The Chennai Tribunal held that Book Profit is referred to the profits shown in the Profit & Loss Account that are specifically enhanced or reduced by specific items. One of the items that is to be reduced is the amount of loss brought forward or depreciation whichever is less as per Books of Account.
- Further, as per clause (vii) of Explanation 1 to section 115 JB (2), the profits of the sick company would be reduced for book profit computation.
- It was noted that profits of a sick company had specifically been excluded from the purview of computation of book profit for MAT. The amount of brought forward business losses or depreciation would be allowable only when there were positive book profits.
- Further, the positive book profits started arising to the assessee only from the year after the assessee became a non-sick company, and accordingly adjustment of brought forward business losses or depreciation would start from that year only.
- Thus, since the assessee had correctly adjusted the brought forward losses and depreciation, AO was to be directed to grant adjustment as claimed by the assessee during the year.