

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES "B" : DELHI

BEFORE SHRI BHAVNESH SAINI, JUDICIAL MEMBER
AND
SHRI L.P. SAHU, ACCOUNTANT MEMBER

ITA.No.3813/Del./2013
Assessment Year 2002-2003

M/s. Caktus Properties Pvt. Ltd., 2753/4, Zorawar Singh Marg, New Delhi – 110 006. PAN AAACC5473C (Appellant)	vs.	The Income Tax Officer, Ward-3(2), New Delhi. (Respondent)
---	-----	---

For Assessee :	Shri K. Sampath, Advocate
For Revenue :	Shri Arun Kumar Yadav, Sr. D.R.

Date of Hearing :	20.11.2017
Date of Pronouncement :	21.11.2017

ORDER

PER BHAVNESH SAINI, J.M.

This appeal by assessee has been directed against the order of the Ld. CIT(A)-VI, New Delhi, dated 4th March, 2013 for the A.Y. 2002-2003.

2. We have heard the learned Representatives of both the parties and perused the material on record.

3. Learned Counsel for the Assessee did not press ground No.1, 2 (a) and (b) of the appeal. The same are dismissed as not pressed.

4. The assessee on Ground No.2(c) has challenged the addition of Rs.6,00,200 on account of share capital as unexplained. The A.O. passed the order dated 23rd December, 2011 under section 254/143(3) of the I.T. Act. The assessee claimed that addition of Rs.6,00,200 was accepted by the Hon'ble ITAT while accepting the appeal of assessee against the order of the penalty under section 271(1)(c) of the I.T. Act. The A.O. noted that such issue was never raised in appeal before the Ld. CIT(A), so the question of relief does not arise. Similarly, such issue was also never taken-up by the assessee before the Tribunal in its appeal against the assessment order. Therefore, no relief was ever allowed to the assessee by the Appellate authorities. The A.O. as per the assessment order under section 144 of the I.T. Act dated 11.02.2005 made the addition of Rs.6,00,200 which was made through the original assessment order as it still stands. The Ld. CIT(A) noted in his findings that during quantum proceedings neither this issue was raised before Ld. CIT(A)

or before ITAT regarding addition of Rs.6,00,200. Therefore, the quantum addition made on account of share capital is final and hence, the same issue cannot be re-adjudicated in the present proceedings. Ld. CIT(A) accordingly, confirmed the addition.

5. After hearing rival contentions, we do not find any merit in this ground of appeal of the assessee. It is an admitted fact that the above addition under challenge was made by the A.O. in the original assessment order under section 144 dated 11.02.2005. The assessee filed appeal before Ld. CIT(A) which have been decided vide order dated 16th September, 2009 and this issue have not been raised by the assessee before the Ld. CIT(A) and the Ld. CIT(A) has dismissed the appeal of assessee. The assessee further filed appeal before ITAT, Delhi Bench in ITA.No.4376/Del./2009 which was allowed for statistical purposes vide order dated 23rd April, 2010 in which the matter was remanded to the A.O. for completion of the assessment. These facts supports the findings of the authorities below that the issue of share capital of Rs.6,00,200 was never raised earlier before the Ld. CIT(A) as well as before the Tribunal and addition has become final. Therefore, the A.O. in the present set aside proceedings under

section 254/143(3) correctly denied re-adjudication of the addition vide order dated 23.12.2011. Learned Counsel for the Assessee did not dispute these facts during the course of arguments that this point was not raised before the Ld. CIT(A) in the grounds of appeal in the first appellate proceedings. The same fact has already been mentioned by the Ld. CIT(A) in the arguments of the assessee that *“unfortunately this issue was not taken-up for want of ground of appeal”*. No infirmity have been pointed out in the orders of the authorities below. This ground of appeal of assessee is accordingly dismissed.

6. In the result, appeal of assessee is dismissed.

Order pronounced in the open Court.

Sd/-
(L.P. SAHU)
ACCOUNTANT MEMBER

Sd/-
(BHAVNESH SAINI)
JUDICIAL MEMBER

Delhi, Dated 21st November, 2017

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	CIT(A) concerned
4.	CIT concerned
5.	D.R. ITAT 'B' Bench, Delhi
6.	Guard File.

//By Order //

Asst. Registrar, ITAT, Delhi Benches
Delhi.