

INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "E": NEW DELHI  
BEFORE SHRI H.S.SIDHU, JUDICIAL MEMBER  
AND  
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER

ITA No.1211/Del/2016  
(Assessment Year: 2005-06)

ACIT, Circle-10(2), New Delhi	Vs.	M/s. Green Valley Plywood Ltd, 2941/3, Chuna Mandi, Paharganj, New Delhi PAN: AAACG0323P
(Appellant)		(Respondent)

Revenue by :	Ms. Rinku Singh, Sr. DR
Assessee by:	None
Date of Hearing	15/01/2019
Date of pronouncement	18/02/2019

ORDER

PER PRASHANT MAHARISHI, A. M.

1. This is an appeal filed by the revenue against the order of the ld CIT(A)-15, New Delhi dated 02.12.2015 for the Assessment Year 2005-06.
2. The revenue has raised the following grounds of appeal:-
  - “1. *Whether on the facts and circumstances of the case in law ld CIT(A) is correct in holding the addition u/s 68 made by AO on account of unexplained cash credit that the amount pertains to A.Y. 2003-04 and A.Y. 2004-05 ignoring the fact of the AO that the amount pertains to A.Y. 2005-06.*”
3. Brief facts of the case shows that assessee is a company who filed its return of income for assessment year 2005 – 06 on 3/10/2005 showing income of INR 9 24060/-. return was processed u/s 143 (1) of the act. Subsequently the case was reopened u/s 147 of the act on the basis of the information received from the investigation wing of the department that assessee is a beneficiary of taking accommodation entry in the garb of share application money and said application from accommodation entry providers. During the course of assessment proceedings the assessee did not produce the complete details and failed to comply on the appointed dates. During the course of reassessment proceedings it was found that assessee has received

share capital/share premium and share application money aggregating to INR 4 0 4,00,000 from corporate entity and assessee could not provide even the addresses of those parties. Therefore detailed show cause notice was issued to the assessee which was not attended and not complied with. However as per para number 9 of the assessment order certain details were submitted which were considered but not accepted proving the identity, creditworthiness and genuineness of the transactions. The learned assessing officer therefore made the addition of INR 4 0 4,00,000 under section 68 of the act. Consequently the assessment u/s 147 read with section 144 of the income tax act was passed on 28/03/2013 determining the total income of the assessee at INR 9 8441709/- along with the above addition of INR 4 0 4,00,000 certain other additions were also made. Those other additions are not part of the dispute before us.

4. The assessee preferred an appeal before the learned CIT – A who examined the whole issue and then confirmed the addition of INR 4 0400000 received by the appellant as share application or said capital u/s 68 of the act. However wide para number 6.9 of his order the learned CIT – A stated as under:-

“6.9 since the total amount of INR 4 0400000/- received by the appellant as share application money/share capital has been held unexplained u/s 68 of the act and sustained as per the above conclusion, AO is directed, in view of the provisions of section 150 (1) of the act, to reopen the assessment proceedings in the case of the appellant for the assessment year 2003 – 04 INR 21500000/- and AY 2004 – 05 INR 7450000/- after verifying and ascertaining the facts from records and make assessment accordingly. The balance amount of INR 11400000/- which pertains to the year under consideration, as held unexplained under section 68 of the act by the AO, is hereby sustained.

7. Thus the appellant gets relief of Rs. 21500000 and INR 7450000/- in the year under consideration as the same has to be assessed in the relevant years. The balance addition of Rs. 11400000/- is hereby confirmed in the year under consideration. The grounds taken by the appellant are partly allowed.”

5. The revenue is aggrieved with this finding of the learned CIT – A and therefore has raised ground number 1 of the appeal.
6. The learned senior departmental representative vehemently supported the order of the learned AO and submitted that the whole addition should have been made in this year only.
7. Despite notice, none appeared on behalf of the assessee, therefore, the issue is decided on the merits of the case as per information available on the record.
8. We have carefully considered the rival contentions and perused the orders of the lower authorities. The learned CIT – A is empowered to give direction about the taxability of an income in altogether different year if the facts justifies. Such is the authority granted to the CIT appeal under the provisions of section 150 (1) of the income tax act. In the present case after examining the whole issue it was found by the learned CIT – A that out of the sum of INR 4 0400000/- the sum of Rs. 21500000/- is in fact pertains to assessment year 2003 – 04 and INR 7 450000/- to assessment year 2004 – 05 and not to the year under consideration and therefore he is given a direction to tax the above sum in those particular areas. We do not find any infirmity in the order of the learned CIT appeal in giving such direction the learned assessing officer should have followed those directions and taxed the above sum in those years. In view of this, the only ground raised in appeal of the learned assessing officer is dismissed.
9. Accordingly the appeal of the revenue is dismissed.  
Order pronounced in the open court on 18/02/2019.

-Sd/-

(H.S.SIDHU)  
JUDICIAL MEMBER

-Sd/-

(PRASHANT MAHARISHI)  
ACCOUNTANT MEMBER

Dated:18/02/2019  
Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR  
ITAT, New Delhi