

**IN THE INCOME TAX APPELLATE TRIBUNAL
SURAT BENCH, SURAT**

**(BEFORE SHRI MAHAVIR PRASAD, JUDICIAL MEMBER
& SHRI O. P. MEENA, ACCOUNTANT MEMBER)**

**ITA. No: 320/SRT/2018
(Assessment Year: 2012-13)**

Goldi green Technologies Pvt. Ltd. 278, Pajwa Fali, Green Lines, Katargam, Surat-395004	V/S	Income Tax Officer, Ward- 1(1)(2), Surat
(Appellant)		(Respondent)

PAN: AAECG 1248F

**Appellant by : Ms. Urvashi Shodhan, Advocate
Respondent by : Shri Prasanjit Singh, CIT/D.R.**

(आदेश)/ORDER

Date of hearing : 19 -06-2019
Date of Pronouncement : 15-07-2019

PER MAHAVIR PRASAD, JUDICIAL MEMBER

1. This appeal by the Assessee is directed against the order of the Ld. CIT(A)-3, Surat dated 04.04.2018 pertaining to A.Y. 2012-13 and for confirming the addition of Rs. 7,04,00,000/-.

2. Facts are emanates from the Statement of Facts:

1. The appellant is a private limited company engaged in the business of manufacturing and trading of solar panels. However during the year under consideration, the company was under work-in progress stage. The company is incorporated on 23/02/2011.
2. During the year under consideration, for the purposes of attaining the objects of the Company, share capital to the tune of Rs, 84,09,000/- was raised. The capital was raised in the manner below;

Face value: Rs. 10/-

Premium : Rs. 490/-

The premium was determined considering the future potential of the Company and the possibility of growth which was commensurate with the intrinsic value being the technology, knowhow and expertise it possesses in the field of manufacturing and trading of solar panel.

The share capital of the Company was subscribed by M/s Numeric Commodial Pvt. Ltd., Kolkata (Investor Company), which is incorporated on 29/04/2009 and possessed net worth of Rs. 7.04 crores as on 31/03/2012.

The management of the Investor Company deemed it appropriate to invest its entire capital in the subscription of the appellant company and after completing the relevant and necessary formalities under the law, the appellant company issued and allotted share capital to the tune of Rs. 7.04 crores (including premium).

In the course of assessment proceedings, the Ld. A.O. made inquiries with respect to the identity, genuineness and creditworthiness of the Investor Company which was adequately explained as evidenced with the requisite under mentioned material.

- i. The confirmation from the investor for share application money received by the assessee company.
- ii. The copy of his Return of Income and computation of total income for the relevant year under consideration.
- iii. The copy of his bank pass book from which he has issued the cheque for investing in the capital of the assessee company.
- iv. The copy of his Balance Sheet as at 31st March 2012.
- v. The copy of the Form No. 2 filed with ROC for allotment of shares to the said investor.
- vi. Certified copy of the Board Resolution for allotment of shares.

Further, valuation report on the basis of which share premium was determined was also submitted during the course of assessment.

The Ld. A.O. not being satisfied with the information and documents furnished, conducted inquiries by seeking information u/s. 133 as well as u/s. 131 through the office at Kolkata .

Desotte furnishing and availability of complete information, the Ld. A.O. came to a conclusion that the transaction of investment in the share capital of the Company by the Investor Company was unexplained for the following reasons:

- i) The identity of the investor Company was not proved as on the given address the Investor Company did not subsist.
- ii) The transaction was not genuine:
 - a) As the entire investment in the Company was made out of the proceeds deposited immediately before the date of investment.
 - b.) The entire capital of the investor Company was invested in the appellant company
 - c) The premium at which the investment was made was unreasonable,

d) The documents submitted in relation to the transaction was not found adequate.

iii) The creditworthiness of the Investor Company was also doubted by him as the entire capital of the Investor Company was found to be invested in the appellant company and that the Investor Company did not have sufficient balance in its bank accounts in general.

The Ld, A.O. has thus held that the share capital amounting to Rs, 7,04,00,000/- so received is unexplained cash credit u/s. 68 and added to the income.

The ld. A.O. also presumed that commission of Rs. 7,04,000/- is paid by the appellant which is out of unexplained sources so as to attract provisions of sec. 69C. The basis for such presumption and also the manner of its quantification is not known to the appellant. And finally addition of Rs. 7,04,00,000/- was made.

3. Against the said order, assessee preferred first statutory appeal before the ld. CIT(A) and assessee filed additional evidence for which remand report was sought by the ld. CIT(A) but ld. A.O. did not give sufficient time to file the relevant detail before the ld. A.O. during the remand report.
4. In our considered opinion, same is amount to miscarriage of justice and assessee/appellant should have been given sufficient time to file the relevant details before the authorities below. Thus, in the interest of the justice, we set aside this matter to the file of the ld. A.O. to decide afresh after considering all the details which have been submitted by the appellant and whatever documents to be submitted by the appellant in the interest of justice and thereafter ld. CIT(A) will decide matter afresh.

5. In the result, appeal filed by the Assessee is allowed for statistical purpose.
6. The order is pronounced by listing the case on the Notice Board under Rule 34(4) of Income Tax Appellate Tribunal Rules, 1963.

Sd/-
(O. P. MEENA)
ACCOUNTANT MEMBER
Ahmedabad: Dated : 15/07/2019

Sd/-
(MAHAVIR PRASAD)
JUDICIAL MEMBER

Rajesh

Copy of the Order forwarded to:-

1. The Appellant.
2. The Respondent.
3. The CIT (Appeals) –
4. The CIT concerned.
5. The DR., ITAT, Ahmedabad.
6. Guard File.

By ORDER

/ / **TRUE COPY** / /

Deputy/Asstt.Registrar
ITAT, Surat