

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES 'G', NEW DELHI**

Before Sh. Amit Shukla, Judicial Member

Dr. B. R. R. Kumar, Accountant Member

ITA No. 5343/Del/2015 : Asstt. Year : 2010-11

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| Asstt. Commissioner of Income Tax, Central Circle- 28, New Delhi-110055 | Vs | M/s Sidh Automobiles Ltd., 14, Nazafgarh Road, New Delhi-110015 |
| (APPELLANT) | | (RESPONDENT) |
| PAN No. AAACS1312A | | |

Assessee by : Sh. Ramesh Goyal, CA

Revenue by : Sh. S. S. Rana, CIT DR

Date of Hearing: 18.09.2019

Date of Pronouncement: 18.09.2019

ORDER

Per Dr. B. R. R. Kumar, Accountant Member:

The present appeal has been filed by the revenue against the order of the Id. CIT(A)-29, New Delhi dated 09.06.2015.

2. In this case, the notice u/s 153C of the Act was issued on 04.03.2013 after recording due satisfaction. The assessee filed copy of the return vide letter dated 18.03.2013. The assessment has been completed on 26.03.2013. At ground no. 4 the revenue has taken objection to the observation to the Id. CIT (A) that the *assessee has not been provided adequate opportunity without appreciating the fact that the return was filed by the assessee on 18.03.2013 just few days before the limitation date of 31.03.2013*. We find that the revenue has not appreciated the fact that the notice has been issued by the revenue on 04.03.2013 while the search on the Triveni Group

was conducted on 28.09.2010 and assessee has duly complied to the notice issued by the revenue in due time. Hence, it can be conveniently held that the appeal has been filed without considering the facts on record and hence the ground is hereby dismissed.

3. Ground No. 1 & 5 pertains to deletion of Rs.4,54,950/- being 50% of the total expenses claimed in P&L account. Ground No.2 pertains to disallowance of Rs.7,500/- and ground no.3 pertains to disallowance of Rs.4,308/- on account of claim of exempt income on sale of shares. This is not a case where the assessment has got abated owing to the provisions of Chapter XIV-B. The Id. CIT (A) has rightly deleted the addition on the grounds that the addition do not emanate from seized material in view of established case laws in the case of CIT Vs Kabul Chawla 380 ITR 573 (SC). Hence, we decline to interfere with the order of the Id. CIT (A) on these grounds.

4. Ground No. 6 pertains to invocation to Rule 46A of the Income Tax Rules, 1962. At the outset, we find that no new evidences were accepted by the Id. CIT (A) during the proceedings. Regarding the deletion of amount of Rs.6,00,000/- found in the cash book, the Id. CIT (A) has clearly given a finding that there have been withdrawals of Rs.6,00,000/- from HDFC Bank a/c No. 0103 maintained with Lajpat Nagar Branch on 18.03.2010. Hence, we decline to interfere with the order of the Id. CIT (A) on this ground.

5. Ground No. 7 relates to the advances given by the assessee of Rs.212,88,440/- to majorly to five parties from whom the assessee has received interest. The same have been

reflected in the balance sheet of the assessee under head "loans given". This effectively shows that the Assessing Officer is trying to verify the assets reflected in the balance sheet. This could be a futile exercise. Taxing of a bogus liability may lead to collection of revenue in the presence of tangible asset, however, law hasn't evolved to tax bogus asset. There has been no evidences by the way of seized material or any other evidences to prove or to lead any credence that, the assessee has raised bogus debtors to be recovered at a later date. Since, the instance case is not so, we hereby decline to interfere with the order of the Id. CIT (A) on this ground.

6. In the result, the appeal of the revenue is dismissed.
(Order Pronounced in the Open Court on 18/09/2019).

Sd/-

(Amit Shukla)
Judicial Member

Dated: 18/09/2019

Subodh

Copy forwarded to:

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

Sd/-

(Dr. B. R. R. Kumar)
Accountant Member

ASSISTANT REGISTRAR