

IN THE INCOME TAX APPELATE TRIBUNAL
DELHI BENCH "SMC": NEW DELHI
BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER

ITA No. 7350/DEL/2018

A.Y.: 2015-16

SHIV SHAKTI HANDICRAFTS PVT. LTD. vs. ITO, WARD 23(2),
206, HANS BHAWAN, NEW DELHI
1, BSZ MARG,
NEW DELHI - 110 002
(PAN: AABCS4784R)
(Appellant)

(Respondent)

Assessee by : Sh. Mukul Gupta, CA
Department by : Sh. Amrit Lal, Sr. DR.

ORDER

This appeal filed by the Assessee is directed against the Order dated 25.09.2018 of the Ld. CIT(A)-8, New Delhi pertaining to assessment year 2015-16 on the following grounds:-

- 1. The Ld. CIT(A) has erred on facts and in law in upholding the addition of Rs. 1,00,000/- on account of share capital as the said share capital was issued in FY 2000-01 and is bonafide.*
- 2. The Ld. CIT(A) has erred on facts and in law in upholding the addition of Rs. 10,00,000/- on account of treating the loans and advances given as not genuine however the said loans and advances were given in FY 2011-12 and is bonafide. Addition u/s 68 without any credit in the year under consideration is bad in law.*

3. *The Ld. CIT(A) has erred on facts and in law in upholding the impugned order of the AO which is contrary to law, passed without application of mind and without complying with the procedure and rules, is against equity and justice and facts of the assessee and material on record.*
4. *The Ld. CIT(A) has erred in law in upholding assessment wrongly done u/s. 143(3) as assessment should have been done u/s. 153C as satisfaction note of DCIT Central Circle Noida dated 10.10.2017 was received.*
5. *The Ld. CIT(A) has erred on facts and in law by not adjudicating ground of initiation of penalty proceedings u/s. 271(1)(c) without any material on record.*

2. The brief facts of the case are that assessee filed its return of income on 22.09.2015 declaring loss of Rs. 9,305/-. Assessee's case was selected for scrutiny and assessment u/s. 143(3) of the Income Tax Act, 1961 (in short "Act") was completed by the AO on 31.12.2017 determining assessment income at Rs. 10,90,695/- by making disallowance of Rs. 11,00,000/- on account of unexplained cash credit u/s. 68 of the I.T. Act. Against the assessment order, assessee appealed before the Ld. CIT(A), who vide his impugned order dated 25.09.2018, dismissed the appeal of the assessee. Against the impugned order dated 25.09.2018 of the Ld. CIT(A), assessee is in appeal before the Tribunal.

3. At the time of hearing, Ld. Counsel for the assessee submitted that Ld. CIT(A) is wrong in upholding the addition of Rs. 1,00,000/- on account of share capital as the said share capital was issued in FY 2000-01 and is bonafide. It was further submitted that Ld. CIT(A) has also wrongly upheld the addition of Rs. 10,00,000/- on account of treating the loans and advances given as not genuine however the said loans and advances were given in FY 2011-12 and is bonafide. Hence, the addition u/s 68 without any credit in the year under consideration is bad in law. It was further submitted that Ld. CIT(A) has erred in upholding the impugned order of the AO which is contrary to law, passed without application of mind and without complying with the procedure and rules, is against equity and justice and facts of the assessee and material on record. It was the further submission that Ld. CIT(A) has erred in law in upholding assessment wrongly done u/s. 143(3) of the Act as assessment should have been done u/s. 153C of the Act as satisfaction note of DCIT Central Circle Noida dated 10.10.2017 was received. In view of above, he requested to delete the addition and allow the appeal of the assessee.

4. On the contrary, Ld. DR relied upon the orders of the authorities below and stated that Ld. CIT(A) has passed a well reasoned order which does not need any interference on my part. He relied upon various case laws and filed the same in the form of Written Submissions.

5. I have heard both the parties and perused the orders passed by the revenue authorities especially the Paper Book filed by the Ld. Counsel for the assessee alongwith the Written Submissions of Ld. DR. I note that in this case the Serious Fraud Investigation Office

(SFIO) conducted investigation into the affairs of various companies controlled by Sh. Surinder Kumar Jain and Sh. Virender Kumar Jain. On the basis of such investigations the SFIO filed complaint under section 120B, 420, 468, 477A of the Indian Penal Code against 31 persons including the above mentioned persons, statutory auditors, mediators and companies. The SFIO also found that 34 Chartered Accountants were acting as mediator for providing accommodation entries to 559 beneficiaries. The said information was shared with the Income Tax Department. Search and seizure operations carried out in the case of the SL World group of companies on 11/11/2014 which revealed that the said companies were engaged in generation of cash in the real estate and other business and several companies of the group, having share premium account worth several crores, were funding their bogus capital account as well as unsecured loans from non-existing bogus companies / concerns in Kolkata, Delhi and Muzaffarnagar as well as providing accommodation entries to the group companies. In the process, 'out of book' cash generated was being infused in these group companies, which in turn, was being used to provide unsecured loans to other group companies provide unsecured loans to other group companies. Search and seizure operations conducted on a 11/11/2014 at the premises of Sun World Developers Private Limited and Sun World City private Limited; Bahadur Shah Zafar Marg, New Delhi lead to seizure of incriminating documents relating to Y K Gupta Group of companies which showed. One such document i.e. page 250 of LP - 16 of party TW - 11 showed details of unsecured loan and share premium etc. The name of the assessee appeared at serial No. 18 which showed share capital of

Rs. 1 lakh and loan of Rs. 10,87,365. I further find that AO observed that the assessee company is just paper company engaged in providing of accommodation entry. There is lying unsecured loan given of Rs. 10 lac on which company not earning any interest because P&L account of its almost blank except debiting other expense of Rs. 9305/-. In the previous year there was no business and as on 31.3.2014 just shown other income of Rs. 640/- as against NIL this year. Therefore, AO held that the share capital of Rs. 1 lac and long term and advances given of Rs. 10 lac as not genuine as assessee could not file any supporting documents as evidence in support of these sums, hence, he treated the share capital and long term loan and advances as unaccounted money of the assessee u/s. 68 of the Act. I further find that during the appellate proceedings the assessee enclosed photocopy of letter dated 13/12/2017 which was claimed to have been filed before the Assessing Officer. However, the letter of the AR of the assessee enclosing the above mentioned letter was unsigned. The documents filed were stated to be the audited balance sheet; Memorandum of Association of the company; names of the shareholders; bank details of the year under consideration of Bank of India, Bahadur Shah Zafar Marg, New Delhi showing three transactions during the year under reference; ledger account of audit fee payable, audit' fees,' bank charges, payment to Image Dresses Private Limited etc. The documents filed by the assessee do not satisfy the requirement of law as per section 68 of the Act as no evidence has been submitted regarding the identity, creditworthiness etc. of the shareholders or the genuineness payment to Image Dresses Private Limited. The assessee has not produced any evidence

except computer generated ledger account in support of its contention. No bank details, documents evidencing the identity and the creditworthiness of the share holders, identity of Image Dresses Private Limited etc have been submitted either during the course of appellate or assessment proceedings. Therefore, in view of the above it was rightly held by the Ld. CIT(A) that the assessee has not been able to submit any evidence in support of his contention that the addition made by the AO was incorrect. In view of the same the contention of the assessee was not accepted. Keeping in view of the facts and circumstances of the case as explained above and the orders passed by the revenue authorities, in my considered view, the addition was rightly made by the AO and confirmed by the Ld. CIT(A), which does not need any interference. Therefore, I uphold the well reasoned order passed by the Ld. CIT(A) on the issue in dispute and reject the grounds raised by the Assessee.

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

Order pronounced on 06-11-2019.

Sd/-
[H.S. SIDHU]
JUDICIAL MEMBER

Date:06/11/2019

SRB

Copy forwarded to: -

1. Appellant 2. Respondent 3. CIT 4.CIT (A) 5. DR, ITAT

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By Order,

Assistant Registrar, ITAT, Delhi Benches