



**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**"C" BENCH, MUMBAI**

**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND**  
**SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER**

ITA no.2813/Mum./2016  
(Assessment Year : 2011-12)

M/s. Plumetti Exports Pvt. Ltd.  
B-208, Shantivan-II, Raheja Township  
Malad (East), Mumbai 400 097  
PAN – AADCP0605L

..... Appellant

v/s

Income Tax Officer  
Ward-9(2)(4), Mumbai

..... Respondent

Assessee by : Shri Pramod Kumar Parida  
Revenue by : Shri Sreekar

Date of Hearing – 23.03.2021

Date of Order – 31.05.2021

**ORDER**

**PER S. RIFAUR RAHMAN, A.M.**

The captioned appeal has been filed by the assessee challenging the impugned order dated 25<sup>th</sup> January 2016, passed by the learned Commissioner (Appeals)-21, Mumbai, pertaining to the assessment year 2011-12.

2. Following grounds of appeal have been raised by the assessee:-

*"1. The learned CIT(A) has erred in confirming an addition of ₹ 8,21,68,000 and ₹ 35,00,000, made by the learned Assessing Officer on account "Unexplained Cash Credit" u/s*

*68 of the Income Tax Act, 1961, without appreciating the facts of the case and in the right perspective.*

*2. The learned CIT(A) has erred in confirming an addition by treating cash deposited ₹ 11,90,000 as "Unexplained Cash Credit" u/s 68 of the Income Tax Act, 1961 without appreciating the facts of the case in the right perspective.*

*3. The learned CIT(A) has erred in confirming an disallowance of ₹ 2,54,47,349 as expenses claimed against interest and also disallowing ₹ 1,00,000 claimed on account of donation without appreciating the facts of the case in the right perspective.*

*4. The learned CIT(A) has erred in confirming the penalty notice under section 271(1)(c) and 271D, without appreciating the facts on the case in the right perspective."*

3. In this case, the return of income was filed by the assessee on 7<sup>th</sup> February 2012, showing income of ₹ 9,98,170. The Assessing Officer assessed the income at ₹ 11,34,03,520. During the year under consideration, the assessee has not carried out any business activity. The Assessing Officer examined the Balance Sheet filed by the assessee and noted that the assessee is in receipt of share application money aggregating to ₹ 32,57,19,000. He further noticed that the assessee has received share application money during the year from 15 parties aggregating to ₹ 48,02,79,000. The Assessing Officer examined the cash credits and called for the details to establish the identity and credit worthiness of the creditors and the genuineness of the transactions. Notices under section 133(6) were issued to the parties from whom claim was made regarding share application money

received. The Assessing Officer concluded that the assessee could not produce details proving the identity, genuineness and credit worthiness for eight parties from whom the aggregate amount of ₹ 8,21,68,000 were received. He treated the amount so credited to the assessee's account at ₹ 8,21,68,000, as unexplained cash credit under section 68 of the Act.

4. Similarly, the Assessing Officer also called for details in respect of unsecured loans. However, the assessee failed to adduce evidence regarding identity, genuineness and credit worthiness, the Assessing Officer added ₹ 35,00,000, as unexplained cash credit under section 68 of the Act.

5. The Assessing Officer further called upon the assessee to furnish details of claim of expenses to the tune of ₹ 2,57,62,349, however, the assessee failed to furnish books of account and the details as sought by the Assessing Officer. Accordingly, the Assessing Officer held the claim of expenses as unexplained. Similarly, the claim for donation of ₹ 1,00,000, was also disallowed.

6. From the Bank statement filed in respect of the bank account in Union Bank account no.464901010036300, the Assessing Officer noted that cash has been deposited in the said account on various dates aggregating to ₹ 11,90,000. However, the assessee failed to show the

source of cash deposit in the bank account and could not explain the same. The Assessing Officer, therefore, made an addition of ₹ 11,90,000 under section 68 in this regard.

7. The assessee being aggrieved with the aforesaid additions, filed appeal before the first appellate authority wherein the learned Commissioner (Appeals) held that the creditworthiness of share applicants and genuineness of the transactions with it by the assessee is not established and no evidence whatsoever supporting the explanation regarding unsecured loans and cash deposit are filed and, hence, the addition of ₹ 8,21,68,000 and 35,00,000, were upheld.

8. In respect of disallowance of expenses of ₹ 2,54,47,349 (wrongly mentioned by the assessee as "₹ 2,57,62,349" in its grounds of appeal) and ₹ 1,00,000, on account of donation. The assessee failed to produce any documentary evidences in support of such claims. The learned Commissioner (Appeals) noticed that the assessee submitted a purported extract of objects of the assessee as per its Memorandum of Association as per which it can lend with or without interest. No copy of M&A was filed. The learned Commissioner (Appeals) on a perusal of the list of expenses shown in the Profit & Loss Account, held that the said expenses of ₹ 2,54,47,349, is not allowable as business expenses. The donation of ₹ 1,00,000, claimed by the Assessee is also held to be

not as business expenses. He held that genuineness of such claim of loss is not established.

9. The assessee being aggrieved by the aforesaid disallowances is in appeal before the Tribunal.

10. Considered the rival submissions and perused the material on record. Before us, the assessee filed additional evidence in support of the claim of unexplained cash credit and unexplained deposits. The learned Counsel for the assessee submitted that the issues under consideration in the present case be restored to the file of the Assessing Officer to enable the assessee to produce necessary evidences in respect of the claims made by the assessee. The learned Departmental Authorities has not expressed any objection to the submissions of the learned Counsel for the assessee. Even otherwise also, we find from the assessment order, the Assessing Officer has made additions on assumption and presumption and not on merit. Consequently, we set aside the impugned order passed by the authorities below and restore the entire file to the Assessing Officer for denovo adjudication on merit after considering the additional evidence filed by the assessee and provide adequate opportunity of being heard to the assessee. The assessee is also directed to file necessary

evidences in respect of the claim made. Thus, the grounds of appeal raised by the assessee are allowed for statistical purposes.

11. In the result, appeal is allowed for statistical purposes.

Order pronounced in the open court on 31.05.2021

**Sd/-  
MAHAVIR SINGH  
VICE PRESIDENT**

**Sd/-  
S. RIFAUR RAHMAN  
ACCOUNTANT MEMBER**

**MUMBAI, DATED: 31.05.2021**

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The CIT(A);
- (4) The CIT, Mumbai City concerned;
- (5) The DR, ITAT, Mumbai;
- (6) Guard file.

*Pradeep J. Chowdhury  
Sr. Private Secretary*

True Copy  
By Order

Assistant Registrar  
ITAT, Mumbai