

आयकर अपीलीय अधिकरण “जी” न्यायपीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“G” BENCH, MUMBAI

BEFORE JUSTICE SHRI P. P. BHATT, PRESIDENT AND
SHRI MANOJ KUMAR AGGARWAL, AM
(Hearing through Video Conferencing Mode)

आयकरअपील सं./ I.T.A. No.3938/Mum/2019
(निर्धारण वर्ष / Assessment Year: 2010-11)

M/s Wallstreet Finance Ltd. Chintamani Plaza, Office No. 113-122 1 st floor, A-Wing, CTS No. 294C, Andheri Kurla Road, Chakala Andheri (East), Mumbai-400 099.	बनाम/ Vs.	DCIT – 13(3)(1) R. No. 229, M. K. Road, Aaykar Bhavan, Mumbai-400 020
स्थायीलेखासं ./जीआइआरसं ./PAN/GIR No. AAACW-1258-P		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

Assessee by	:	Shri Madhur Agarwal, Ld. AR
Revenue by	:	Shri T.S. Khalsa, Ld. DR

सुनवाई की तारीख/ Date of Hearing	:	29/06/2021
घोषणा की तारीख / Date of Pronouncement	:	29/07/2021

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by assessee for Assessment Year (AY) 2010-11 arises out of the order of learned Commissioner of Income-Tax (Appeals)-21, Mumbai [CIT(A)], dated 05/03/2019 in the matter of assessment framed by Ld. Assessing Officer (AO) u/s 143(3) on 05/12/2017. The grounds raised by the assessee read as under: -

1. The learned Commissioner of Income Tax (Appeals) erred in confirming the reopening of assessment u/s. 147 of the IT Act made by the assessing officer.
2. The learned Commissioner of Income Tax (Appeals) erred in confirming the addition of Rs.25,03,023 u/s. 68 of the ITA erroneously invoked by the

assessing officer without appreciating that the said sums were sales of the appellant.

3. The learned Commissioner of Income Tax (Appeals) failed to appreciate that appellant has in its course of business of buying and selling foreign currency accounted the receipt from Mr. Hansraj Yadav as sale of currency, for which there was a corresponding purchase, and it was not a case of cash credit in books.

2. We have carefully heard the rival submissions and perused relevant material on record including documents as placed in the paper book. Our adjudication to the subject matter of appeal would be as given in succeeding paragraphs.

3.1 The material facts are that the assessee being resident corporate assessee is stated to be engaged as foreign currency dealer. The original return of income was scrutinized u/s 143(3) on 29/12/2012. However, the case was reopened and another assessment was framed u/s 143(3) r.w.s. 147 on 05/12/2017 wherein the assessee was saddled with impugned additions u/s 68 for Rs.25.03 Lacs.

3.2 The case was reopened since information was received from ITO-35(1)(4), Mumbai that during the course of certain appellate proceedings, Ld. CIT(A) had sought enquiry report with regard to nature and purpose of payments made by one Shri Hansraj Yadav from his bank account to the assessee for Rs.25.03 Lacs. Notice u/s 133(6) was issued by Ld. AO to the assessee specifically asking the assessee to furnish the particulars of amount received from Shri Hansraj Yadav, nature & purpose of payment received, ledger copy etc. However, the assessee had not submitted any reply and therefore an opinion was formed that the said amount as received by the assessee remained unexplained cash credit in its hand. Accordingly, the case was reopened

and a notice was issued u/s 148 on 31/03/2017 directing assessee to explain the nature of credit so received in its books of accounts.

3.3 The assessee submitted that the payment was received from Shri Hansraj Yadav on behalf of Indian Express Newspaper Ltd. (IENPL) towards sale of foreign currency. However, the assessee could not produce confirmation from IENPL. In response to notice u/s 133(6), IENPL submitted that Shri Hansraj Yadav was not in any way employed or associated with them and they had no transactions with him.

3.4 The assessee controverted the same by submitting that the reply could not be relied upon since the amount as received from Shri Hansraj Yadav was in respect of sale of foreign currencies to IENPL. However, not convinced, Ld. AO opined that the credit could not be explained satisfactorily and no revenue was recognized by the assessee on account of receipts from Shri Hansraj Yadav. Accordingly, the receipts were added to the income of the assessee as unexplained cash credit u/s 68.

Appellate Proceedings

4.1 During appellate proceedings, the assessee reiterated that the assessee had business transactions with IENPL and the amounts were received against sale of foreign currency to IENPL which was evident from IENPL request letters for purchase of foreign currency, copy of passports of parties for whom the foreign currency was being purchased, cash memos etc. The assessee also submitted that the foreign currency thus sold was offered as sales which could be verified from the ledger extract of IENPL as appearing in assessee's books. The purchases were

settled by IENPL via RTGS from the account of Shri Hansraj Yadav and therefore, the addition u/s 68 was not justified.

4.2 However, Ld. CIT(A), inter-alia, noted that the assessee failed to file confirmation of IENPL and therefore, it could not discharge the onus as casted on it in terms of the requirements of Sec.68. Mere receipt of money through banking channel was not sacrosanct. Therefore, the additions were justified. Aggrieved, the assessee is in further appeal before us.

Our findings and Adjudication

5. Upon perusal of documents on record, we find that the case was reopened on the allegation that the assessee did not reply to the notice u/s 133(6) with respect to receipt of sum of Rs.25.03 Lacs from Shri Hansraj Yadav. The reasons were recorded on 22/03/2017. However, we find that the summons dated 10/02/2017 issued by CIT(A)-46, Mumbai was duly responded to by the assessee and replies were filed on 20/02/2017 & 22/02/2017. Along with the reply, the assessee has furnished relevant part of books of accounts, bank account and ledger statements relevant to AY 2010-11 covering eight credit transactions carried out by it with Shri Hansraj Yadav. It was confirmed by the assessee that the credits were received on behalf of IENPL. Thus, the allegations that the summons / notices remained to be responded by the assessee, could not be said to be correct.

6. Proceeding further, we find that IENPL has placed request for purchase of foreign currency from assessee from time to time on different dates. The request letters issued by IENPL bears the particulars of person undertaking the trip including his passport number and the

amount of currency required. The copy of the passport of the concerned person was also enclosed with the request letter. As per the request, the assessee has sold foreign currency and has raised invoices as applicable. The assessee maintains running ledger account of IENPL where all the sale transactions are reflected and the account has been settled partly against RTGS payment received from time to time apparently through the account of Shri Hansraj Yadav. The closing outstanding balance at year end is nil. The sale of foreign currency has been booked as sales as there is no contrary evidence on record. So far as the reply of IENPL is concerned, we find that IENPL has denied having employed Shri Hansraj Yadav and denied having any relation with Shri Hans Raj Yadav. But the reply is not in correct perspective and do not address the issue under consideration. On the basis of all these facts and circumstances, the credit could not be termed as unexplained cash credit. By deleting the same, we allow the appeal. The Ld. AO is directed to recompute assessee's income in terms of this order.

7. Resultantly, the appeal stands allowed.

Order pronounced on 29th July 2021.

Sd/-

Sd/-

(Justice P.P. Bhatt)
President

(Manoj Kumar Aggarwal)
Accountant Member

मुंबई Mumbai; दिनांक Dated : 29.07.2021

Sr.PS, Jaisy Varghese

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त(अपील) / The CIT(A)
4. आयकरआयुक्त/ CIT- concerned
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

आदेशानुसार/ BY ORDER,

**उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकरअपीलीयअधिकरण, मुंबई / ITAT, Mumbai.**