

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

**BEFORE SHRI RAJESH KUMAR, ACCOUNTANT MEMBER AND
SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER**

**ITA No.964/M/2019
Assessment Year: 2011-12**

M/s. Seven Rings Education Pvt. Ltd., Plot No.104, Bldg. No.23, Akash Co-op Hsg. Soc., Mahada, Oshiwara, Andheri-West, Mumbai – 400 053 PAN: AAACL4819R	Vs.	The Income Tax Officer- 11(2)(1), Room No.425, 4 th Floor, Aayakar Bhavan, M.K. Road, Mumbai - 400020
(Appellant)		(Respondent)

Present for:

Assessee by : Shri Ajay Singh, A.R.
Revenue by : Shri Sandeep Raj, D.R.

Date of Hearing : 02.08.2021
Date of Pronouncement : 09.08.2021

ORDER

Per Rajesh Kumar, Accountant Member:

The present appeal has been preferred by the assessee against the order dated 27.12.2018 of the Commissioner of Income Tax (Appeals) [hereinafter referred to as the CIT(A)] relevant to assessment year 2011-12.

2. At the outset, the Ld. Counsel of the assessee Mr. Ajay Singh submitted before the Bench that the assessment in this case has been framed by making the addition in respect of all credits appearing in the bank statement as the books of accounts of the assessee were seized by Economic Office Wing, Mumbai since 2011 and therefore the information as desired by the AO could not be furnished. Mr. Ajay Singh also brought to

the notice of the Bench that there are some instances of income which have been added and taxed twice. The ld counsel cited the example of money received of Rs.25,70,01,001/- from M/s. Tulsiyat Tek Private Limited which were put into short term fixed deposits. The Ld. A.R. submitted that this money was added to the income of the assessee twice first when this money was received and secondly when the fixed deposits were matured amounting to Rs.28,36,64,972/-. The Ld. A.R. submitted that the main person who promoted this company Shri Manoj Kumar Sharma expired on 03.03.2014 and thereafter his wife Mrs. Renu Sharma was running the company. The Ld. A.R. submitted that even Mrs. Sharma was arrested by Economic Office Wing, Mumbai as on 05.10.2016 in FIR No.153/2011 and finally got bail on 17.02.2017 from the Hon'ble Bombay High Court. The Ld. A.R., therefore, humbly prayed before the Bench that since the addition has been made without reference to books of accounts adding all credits appearing in the bank statements of the assessee as the books were not available due to the reasons which can not be attributed to the assessee. Therefore, the ld counsel prayed that it would be in the interest of justice, if the correct income is assessed in the hands of the assessee after taking into account the correct income of the assessee as per the books of accounts of the assessee which could not be furnished before the AO due to the reason as stated hereinabove. When the Bench asked the Ld. D.R. about his objection to the contentions of the Ld. A.R. he strongly submitted that the books of accounts of the assessee were not produced before the AO during the assessment proceedings despite several opportunities and finally the assessment has

been framed on the basis of available information primarily the bank statements of the assessee, however, left the decision to the wisdom of the Bench on the issue of setting aside.

3. After hearing both the parties and perusing the material on record, we find that the addition has been made on the basis of total credits appearing in the bank accounts of the assessee which in no way is the correct way of assessing the income though for the want of books of the accounts which were not produced before the AO because the same were seized by the Economic Offense Wing, Mumbai. We also note that money received from M/s. Tulsiyat Tek Private Limited Rs.25,70,01,001/- was put into the short term fixed deposits was added to the income of the assessee. We note that the assessee has repaid the amount to M/s. Tulsiyat Tek Private Limited on 31.03.2011 amounting to Rs.25,24,36,435/- which was ignored by the AO, however, the maturity proceeds received of Rs.28,36,64,972/- upon maturity of short term fixed deposits was added to the income of the assessee which has resulted into addition of the same amount two times first when the loan was received and secondly when the short term fixed deposits matured and credited in the bank account. We note that these mistakes were pointed out before Ld. CIT(A) but unfortunately Ld. CIT(A) has not given any finding on these issues and not addressed these issues. Moreover, we find that the person who is looking after the company Mrs. Renu Sharma was also arrested in 2016 and released on bail on 17.02.2017 by the Bombay High Court and therefore the necessary details/informations could not be furnished before the AO. Under these circumstances, we are of the view that the ends of

justice would be met if the issue is restored to the file of the AO with the direction to assess the correct income of the assessee on the basis of books of accounts and other evidences. The assessee is directed to co-operate before the AO and produce the necessary books of accounts, bills, vouchers etc. so that the assessment could be made based on the records and books of accounts of the assessee. Accordingly, we set aside the appeal to the file of the AO with the direction to frame the assessment denovo after affording a reasonable opportunity of hearing to the assessee. We also direct that the assessee shall not part with or sell any of its properties during this period.

4. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 09.08.2021.

Sd/-
(Pavan Kumar Gadale)
JUDICIAL MEMBER

Sd/-
(Rajesh Kumar)
ACCOUNTANT MEMBER

Mumbai, Dated: 09.08.2021.

* Kishore, Sr. P.S.

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The CIT (A) Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.