

IN THE INCOME TAX APPELLATE TRIBUNAL KOLKATA BENCH '(SMC)', KOLKATA  
[BEFORE SHRI P.M.JAGTAP, VICE PRESIDENT (KZ)]

[THROUGH VIRTUAL COURT]

I.T.A. No. 1048/K.ol/2019  
Assessment Year: 2015-16

*Friends Medical Distributor (Firm).....Appellant*  
*C/o. Atin Das, Advocate, Daharpur, Tamluk,*  
*Purba Medinipur - 721 636.*  
*[PAN: AAEFF 0193 P]*

Vs

*ITO, Ward - 27(3), Haldia.....Respondent*

**Appearances by:**

*None appearing on behalf of the Assessee.*

*Shri Jayanta Khanra, JCIT, Sr. DR appearing on behalf of the Revenue.*

Date of concluding the hearing : August 05, 2021

Date of pronouncing the order : August 25, 2021

**ORDER**

This appeal filed by the assessee is directed against the order of Ld. Commissioner of Income Tax (Appeals)-7, Kolkata dated 18.12.2018 and the solitary issue involved therein relates to the addition of Rs. 2,69,013/- made by the AO and confirmed by the Ld. CIT(A) on account of alleged unexplained cash credit u/s 68 of the Income Tax Act, 1961.

2. The assessee in the present is a company which is engaged in the business of wholesale trading. The return of income for the year under consideration was filed by it on 31.03.2017 declaring a total income of Rs. 48,550/-. Although the said return was initially processed by the AO u/s 143(1) of the Act, it was subsequently selected for scrutiny through CASS. During the course of assessment proceedings, the assessee was required by the AO to explain the

source of cash in hand of Rs. 29,87,730/- appearing in the balance sheet as on 31.03.2015. In reply, the main source as unexplained on behalf of the assessee firm was the contribution made by its partners towards capital accounts. The details of the same were also furnished on behalf of the assessee firm and from the perusal of the same, it was noted by the AO that there was a shortfall of Rs. 2,69,013/-. He also noted that there was a transfer of Rs. 24,00,000/- in the bank account of the assessee firm as on 31.03.2015 for which no proper explanation could be offered by the assessee. He, therefore, treated the amounts of Rs. 2,69,013/- and Rs. 24,00,000/- as unexplained and addition of Rs. 26,69,013/- was made by him u/s 68 to the total income of the assessee in the assessment completed u/s 143(3) vide an order dated 18.12.2017.

3. Against the order passed by the AO u/s 143(3), an appeal was preferred by the assessee before the Ld. CIT(A) and after considering the submissions made on behalf of the assessee as well as the material available on record, the Ld. CIT(A) disposed of the appeal of the assessee vide paragraph no. 4.2 of his impugned order as under:

*"I have considered the submission of the AR of the appellant in the backdrop of the assessment order. I find from the assessment order that the AO has clearly carried out inspection of details submitted by the assessee in course of assessment proceedings and found that there was indeed shortfall of source of fund by the assessee. Neither before the AO nor before me the AR of the appellant has been able to establish the nature and source of the aforesaid credit by the appellant in its books of accounts. The AR has made general submissions without addressing the specific allegations of the AO. In fact, when the AO pointed out the discrepancies no explanation was furnished by the appellant before the AO. Thus the difference of Rs. 2,69,013/- remains unexplained and the action of the AO is found to be justified.*

*The other issues relates to disallowance of a sum of Rs. 24,00,000/- by invoking section 68 of the Act. I find that the appellant's accounts are audited and addition is made purely on estimate basis without any specific findings. I find that all entries are reflected in the regular books of accounts and confirmation of partners has also been filed along with their Income Tax Return and computation sheet and Balance Sheet. I find that the AO has not pointed out any defect in the submissions made by the AR and before me the appellant has filed complete details to substantiate its claim. The action of AO is held to be unjustified. In view of the foregoing the impugned addition of Rs. 24,00,000/- is deleted."*

The Ld. CIT(A) thus deleted the addition of Rs. 24,00,000/- and confirmed the addition of Rs. 2,69,013/- made by the AO. Still aggrieved by the order of the Ld. CIT(A), the assessee has preferred this appeal before the Tribunal.

4. At the time of hearing fixed before the Tribunal, none has appeared on behalf of the assessee. There was a similar non-compliance on the part of the assessee when this appeal was fixed for hearings earlier on 05.05.2012 and 30.06.2021. This appeal of the assessee is therefore being disposed of ex-parte after hearing the arguments of the learned DR and perusing the relevant material available on record. It is noted that while explaining the cash in hand of Rs. 29,87,730/- as reflected in the balance sheet as on 31.03.2015, the main source as unexplained by the assessee was the contribution made by its partners towards capital. The cash book showing introduction of capital by the two partners in cash also was produced by the assessee before the AO for verification. On the examination of the said cash book, the AO found that the capital introduced by both the partners of the assessee firm was to the extent of Rs. 28,30,987/- as against the capital contribution of Rs. 31,00,000/- stated to be claimed by the assessee

firm. He, therefore, treated the amount of Rs. 2,69,013/- as unexplained and made an addition to that extent to the total income of the assessee u/s 68. In my opinion, the main source of cash in hand of Rs. 29,87,730/- was explained by the assessee as capital contribution made by its partners to the extent of Rs. 28,30,987/- and since the said source was clearly established on the basis of cash book showing introduction of capital by the partners, I am of the view the difference of Rs. 2,69,013/- as pointed out by the AO in the total capital contribution as claimed by the assessee to the extent of Rs. 31,00,000/- was not relevant to the issue and such shortfall cannot be treated as income u/s 68 in the hands of the assessee firm by treating the same as unexplained cash credit. The issue was relating to the source of cash in hand amounting to Rs. 29,87,730/- as reflected in the balance sheet of the assessee as on 31.03.2015 and when the same was satisfactorily explained by the assessee inter alia in the form of capital contribution by the partners of the assessee firm, I am of the view that the addition of Rs. 2,69,013/- as made by the AO and confirmed by the Ld. CIT(A) u/s 68 is not sustainable. I, therefore, delete the same and allow this appeal of the assessee.

**5. In the result, the appeal of the assessee is allowed.**

Order Pronounced in the Open Court on 25<sup>th</sup> August, 2021.

Sd/-  
(P.M. JAGTAP)  
VICE PRESIDENT

Dated: 25/08/2021  
Biswajit, Sr. PS

Copy of order forwarded to:

1. Friends Medical Distributor-Firm, C/o. Atin Das, Advocate, Daharpur, Tamluk, Purba Medinipur – 721 636.
2. ITO, Ward – 27(3), Haldia.
3. The CIT(A)
4. The CIT
5. DR

True Copy,

By order,

Sr. Private Secretary/DDO  
ITAT Kolkata Benches, Kolkata