

**IN THE INCOME TAX APPELLATE TRIBUNAL,
KOLKATA-PATNA 'e-COURT', KOLKATA
[Virtual Court Hearing]**

Before Shri P.M. Jagtap, Vice-President(KZ)

**I.T.A. No. 217/PAT/2019
Assessment Year: 2015-2016**

***Shreepunj Construction Pvt. Limited,.....Appellant
Barauni 41 Tola Rasalpur,
P.O. Barauni Dyodhi, P.S. Teghra,
Barauni, Begusarai-851113
[PAN: AAVCS2997L]***

-Vs.-

***Income Tax Officer,.....Respondent
Ward-2(2), Begusarai***

Appearances by:

*Shri D.V. Pathy, Advocate, for the Appellant
Shri Ajay Kumar, JCIT, Sr. D.R., for the Respondent*

Date of concluding the hearing : September 08, 2021
Date of pronouncing the order : September 08, 2021

O R D E R

This appeal filed by the assessee is directed against the order of Id. Commissioner of Income Tax (Appeals), Bhagalpur dated 12.06.2019 and the solitary issue involved therein relates to the addition of Rs.10,00,000/- made by the Assessing Officer and confirmed by the Id. CIT(Appeals) on account of share capital received by the assessee during the year under consideration by treating the same as unexplained cash credit under section 68 of the Income Tax Act, 1961.

2. The assessee in the present case is a Company, which filed its return of income for the year under consideration on 31.03.2017 declaring a loss of Rs.7,650/-. During the year under consideration, share capital of Rs.10,00,000/- was raised by the assessee and the same was stated to be contributed by Shri Shyam Kishore Singh and Shri Krishna Kumar to the tune of Rs.5,00,000/- each. During the course of the assessment proceedings, the assessee-company could not establish the

creditworthiness of the share shareholders namely Shri Shyam Kishore Singh and Shri Krishna Kumar, who invested Rs.5,00,000/- each in the share capital. As further noted by the Assessing Officer, the said share capital was claimed to be received by the assessee-company in cash. He, therefore, treated the entire share capital of Rs.10,00,000/- received by the assessee during the year under consideration as unexplained and an addition to that extent was made by him to the total income of the assessee under section 68 of the Act in the assessment completed under section 143(3) vide an order dated 19.12.2017.

3. On appeal, the Id. CIT(Appeals) confirmed the said addition made by the Assessing Officer observing that the onus lay upon the assessee to explain the relevant cash credits in the form of share capital received during the year under consideration in terms of section 68 was not satisfactorily discharged by the assessee. Aggrieved by the order of the Id. CIT(Appeals), the assessee has preferred this appeal before the Tribunal.

4. I have heard the arguments of both the sides and also perused the relevant material available on record. As regards the share capital of Rs.5,00,000/- contributed by Shri Krishna Kumar, the Id. Counsel for the assessee has submitted that the investment in the share capital of the assessee-company was made by the said shareholder in cash from his past accumulated savings. He, however, has not been able to bring any evidence on record to support and substantiate his explanation. There is also nothing brought on record to show that Shri Krishna Kumar is regularly assessed to income-tax and the investment made by him in the share capital of the assessee-company was duly reflected in this financial statement. I, therefore, find no justifiable reason to interfere with the impugned order of the Id. CIT(Appeals) confirming the addition of Rs.5,00,000/- made by the Assessing Officer under section 68 by treating

the share capital of Rs.5,00,000/- claimed to be received by the assessee-company from Shri Krishna Kumar as unexplained.

5. As regards the share capital of Rs.5,00,000/- contributed by Shri Shyam Kishore Singh, the Id. Counsel for the assessee has filed before the Tribunal two agreements for sale of agricultural land by Shri Shyam Kishore Singh on 14.10.2014 for Rs.1,99,000/- and Rs.6,92,000/-. He has contended that the amounts of sale consideration received by Shri Shyam Kishore Singh in cash were invested in the share capital of Rs.5,00,000/- of the assessee-company. Since these agreements filed by the assessee-company for the first time before the Tribunal constitute additional evidence, which is relevant to decide the issue involved in this case, I have admitted the same. As rightly contended by the Id. D.R. since this evidence was not filed by the assessee either before the Assessing Officer or before the Id. CIT(Appeals), an opportunity is required to be given to the Assessing Officer to verify the same. Keeping in view all the relevant facts of the case, I restore this issue relating to the addition made under section 68 on account of share capital contributed by Shri Shyam Kishore Singh amounting to Rs.5,00,000/- to the file of the Assessing Officer for deciding the same afresh after verifying the additional evidence filed by the assessee in the form of two agreements for sale of agricultural land, the consideration of which received in cash is claimed to be utilized for making investment in the share capital of the assessee-company. Needless to say that the Assessing Officer shall afford proper and sufficient opportunity of being heard to the assessee before deciding the issue afresh after verifying the additional evidence.

6. In the result, the appeal of the assessee is treated as partly allowed for statistical purposes.

Order pronounced in the open Court on September 08, 2021.

**Sd/-
(P.M. Jagtap)
Vice-President**

Kolkata, the 8th day of September, 2021

- Copies to :
- (1) **Shreepunj Construction Pvt. Limited,
Barauni 41 Tola Rasalpur,
P.O. Barauni Dyodhi, P.S. Teghra,
Barauni, Begusarai-851113**
 - (2) **Income Tax Officer,
Ward-2(2), Begusarai**
 - (3) **Commissioner of Income Tax (Appeals), Bhagalpur,**
 - (4) **Commissioner of Income Tax- ,**
 - (5) **The Departmental Representative**
 - (6) **Guard File**

By order

*Senior Private Secretary/DDO
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata*

Laha/Sr. P.S.