

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD ' B ' BENCH, HYDERABAD.**

**BEFORE SHRI S.S. GODARA, JUDICIAL MEMBER AND
SHRI L. P. SAHU, ACCOUNTANT MEMBER
(Through Virtual Hearing)**

**ITA No.288/Hyd/2020
(Assessment Year : 2011-12)**

M/s. Cauvery Iron & Steel (India) Limited,
60/2, PAM Bazar, Ranigunj, Secunderabad-3.
PAN AABCC 3576FAppellant.

Vs.

Income Tax Officer,
Ward 1(3), Hyderabad.Respondent.

Appellant By : Shri P. Murali Mohana Rao.
Respondent By : Shri Rohit Majumdar. (D.R.)

Date of Hearing : 16.06.2021.
Date of Pronouncement : 21.09.2021.

O R D E R

Per Shri S.S. Godara, J.M. :

This assessee's appeal for Asst. Year 2011-12 arises from the Commissioner of Income Tax (Appeals)-1, Hyderabad's order dt.10.01.2020 passed in case No.10374/ITO-1(3)/Hyd/CIT(A)-1/2019-20 in proceedings under Section 143(3) r.w.s. 147 of Income Tax Act, 1961 ('the Act').

Heard both the parties. Case file perused.

2. Apart from the fact that the assessee has sought to challenge the validity of the impugned reassessment taken recourse to by the Assessing Officer in view of section 147 1st proviso, we notice that its sole substantive grievance on merits challenges correctness of both the lower authorities' action that share capital introduced of Rs.1,00,00,000 from M/s. Neo-worth Vyappar Pvt. Ltd. The Assessing Officer as well as the CIT(A) hold that the assessee's foregoing investor entity is a shell company along with M/s. Zodiac Dealcom Pvt. Ltd. and various other entities which had been managed and controlled by a Kolkata based entry operator Sri Manohar Lal Nagalia.

3. We have given our thoughtful consideration to rival contentions against and in support of the impugned unexplained cash credit addition. The Revenue's case in light of the Assessing Officer as well as CIT(A) detailed discussion(s) that the assessee's investor was found to be a name lender only. We notice in this factual backdrop that

the instant issue of unexplained cash credits addition involving Sri Manohar Lal Nagalia had also come before tribunal in assessee's own case in ITA No.914/Hyd/2014 decided on 5.7.2018 against the department and in its favour as under :

“ 13. It may not be out of place to mention that Revenue has placed some statements recorded from one person supposed to have been the key person establishing various companies and routed various funds i.e., of one Mr. Manohar Lal Nagalia from whom statements have been recorded in the years 2008 and 2014. But those statements have been placed in the appeal for AY. 2013-14 which have been considered there. No such evidence has been placed for AY. 2009-10. Even otherwise also that evidence no way support Revenue contentions. It is to be noted that FY. 2008-09 was boom year in the Indian economy and many companies have issued shares with premium (one example is that of M/s Reliance Petroleum Ltd., which has come out with largest public issue with premium). Generally, shareholders respond to the background of the promoters, projects and its viability. Just because high share premium was received by assessee, it cannot be considered that the entire share capital is bogus. Be that as it may, since AO or the CIT(A) failed to link the investments by the shareholders to assessee's Managing Director or to the company, the statement made by the CIT(A) that this is the assessee-company's money cannot be accepted. Assessee-company has commenced its operations in the previous year and has no worthwhile revenue in either of the years to consider that the company has earned unaccounted money. Judicial principles established by the Hon'ble Supreme Court in the case of CIT Vs. P.K. Noorjahan [237 ITR 570] will apply to the facts of the case. Since Revenue failed to place any evidence to support its contentions and as assessee discharged its onus, for the reasons stated above, we find that none of the amounts can be brought to tax as assessee's unaccounted income in the form of 'unexplained cash credits'. Following the principles laid down by the Hon'ble Supreme Court in the case of CIT Vs. Lovely Exports (P) Ltd., (supra), the department could have enquired the amounts and the sources thereon in the hands of the respective shareholders. In view of this, we have no hesitation to delete the entire addition made by the AO. Grounds raised by assessee are allowed.”

4. Learned counsel next invited our attention to tribunal's order in Assessment Year 2009-10 in ITA

914/Hyd/2014 deleting an identical addition in its order dt.5.7.2018. We therefore adopt the above extracted detailed reasoning mutatis mutandis and direct the Assessing Officer to delete the impugned addition.

Learned counsel next submitted that the assessee no more presses in the foregoing legal ground (supra). Rejected accordingly.

5. This assessee's appeal is partly allowed in above terms.

Order pronounced in the open court on 21st Sept., 2021.

Sd/-

(L.P. SAHU)

Accountant Member

Hyderabad, Dt. 21.09.2021.

Sd/-

(S.S. GODARA)

Judicial Member

* Reddy gp

Copy to :

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2.	ITO, Ward 1(3), Hyderabad.
3.	Pr. C I T-1, Hyderabad.
4.	CIT (Appeals) - 1, Hyderabad.
5.	DR, ITAT, Hyderabad.
6.	Guard File.

By Order

Sr. Pvt. Secretary, ITAT, Hyderabad.