

IN THE INCOME TAX APPELLATE TRIBUNAL "B"
(Virtual Court Hearing) BENCH KOLKATA

Before Shri Sanjay Garg, Judicial Member and Shri Rajesh Kumar, Accountant Member

I.T.A. No.1591/Kol/2018
Assessment Year : 2014-15

ITO, Ward-10(1), Kolkata.....Appellant

vs.

M/s Alex Mercury Power Pvt. Ltd.....Respondent

40, Rupchand Mukherjee Lane,

Bhowanipur,

Kolkata-700025.

[PAN: AAJCA0258K]

Appearances by:

None appeared on behalf of the appellant.

Shri Ranu Biswas, Addl. CIT-DR, appeared on behalf of the Respondent.

Date of concluding the hearing : December 09, 2021

Date of pronouncing the order : December 09, 2021

Hearing through Video Conferencing

ORDER

Per Sanjay Garg, Judicial Member:

The present appeal has been preferred by the Revenue against the order dated 25.05.2018 of the Commissioner of Income Tax-4, Kolkata [hereinafter referred to as 'CIT(A)'] passed u/s 250 of the Income Tax Act (hereinafter referred to as the 'Act').

The Revenue in this appeal has taken the following grounds of appeal:

"1) The Ld. CIT(A) has erred in restricting the addition of Rs. 5,90,04,970/- to Rs. 7,086/- only failing to appreciate that the assessee company failed to prove the identity of the creditors and their genuineness and creditworthiness. The ld. CIT(A) erred in ignoring the case of M/s. Baisakha Sales Pvt. Ltd., Kolkata-Vs-CIT (Kol.-II), Kolkata wherein it has been concluded that merely dumping papers and documents on the table of the assessing authority does not in any way mean compliance and the burden of proof cannot be shifted on the revenue by cart loads of documents.

2) The Ld. CIT(A) erred in deleting the disallowance of interest expenses of Rs. 26,33,599/ by holding that the AO has not brought any record on evidence as to suggest that investments are not for the purpose of business whereas the AO. held that the genuineness of the loans remained unexplained and there was no business activity and

when the AO found that there is nothing on record to show that the interest was expenses for earning any income chargeable to tax.

3) That the appellant craves to add, delete or modify any of the grounds of appeal before or at the time of hearing.”

2. No one has put in appearance on behalf of the assessee despite notice on the date of hearing. A perusal of the file records shows that on the earlier dates also no one has put in appearance on behalf of the assessee despite notice. Therefore, we proceed to adjudicate the present appeal after hearing the ld. DR.

3. A perusal of the above grounds of appeal reveals that the Revenue is aggrieved of the action of the CIT(A) in restricting the addition of Rs.5,90,04,970/- to Rs.7086/- made by the Assessing Officer in respect of unsecured credits and in deleting the disallowance of interest expenses of Rs.26,33,599/-.

4. The only argument put by the Ld. DR was that the assessee did not file any documents/evidences before the Assessing Officer, therefore, the Assessing Officer was justified in making the impugned addition. However, the Ld. DR could not controvert that the assessee produced all the relevant details/evidences before the Ld. CIT(A). The Ld. CIT(A) after examining those documents concluded that the assessee had successfully established the identity, creditworthiness of creditors as well as genuineness of the transaction. Before us the Ld. DR could not point out any defect or infirmity in the evidences furnished by the assessee or in the impugned order of the Ld. CIT(A). The only contention is that the Assessing Officer has not been given any opportunity to examine those documents. We do not find merit in the above contention of the Ld. DR. The powers of the Ld. CIT(A) all co-terminus with that of the Assessing Officer. The CIT(A) being first appellate authority is competent to admit additional evidences, examine those evidences and may accordingly reduce, enhance or set aside the assessment made by the Assessing Officer. He is besides the first appellate authority is also an Income Tax Authority having all the powers as that of the Assessing Officer. Since the Ld. DR otherwise could not point out any error or infirmity in the order of the CIT(A), therefore, we do not find any infirmity in the said order of the Ld. CIT(A) and the same is hereby confirmed.

5. In the result, the appeal of the Revenue stands dismissed.

Kolkata, the 9th December, 2021.

Sd/-
[Rajesh Kumar]
Accountant Member

Sd/-
[Sanjay Garg]
Judicial Member

Dated: 09.12.2021.

RS

Copy of the order forwarded to:

1. ITO, Ward-10(1), Kolkata
2. M/s Alex Mercury Power Pvt. Ltd
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Sr.PS/D.D.O, Kolkata Benches