

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI "C" BENCH: NEW DELHI**

(THROUGH VIDEO CONFERENCING)

**BEFORE SHRI G.S.PANNU, PRESIDENT &
SHRI KUL BHARAT, JUDICIAL MEMBER**

ITA No.1503/Del/2018

[Assessment Year : 2014-15]

ITO Ward-10(3) Room No. 374, C. R. Building, New Delhi	vs	GRA Enterprises K-20, Lajpat Nagar-II, New Delhi PAN-AADCG3290L
APPELLANT		RESPONDENT
Appellant by	Sh. C. S. Anand, Adv	
Respondent by	Sh. Kumar Padmapani Bora, Sr. DR	
Date of Hearing	24.11.2021	
Date of Pronouncement	18.01.2022	

ORDER

PER KUL BHARAT, JM :

This appeal filed by the Revenue is directed against the order of Ld. CIT(A)-4, New Delhi dated 27.12.2017 pertaining to the Assessment Year 2014-15. The Revenue has raised following grounds of appeal:-

1. *“On the facts and in the circumstances of the case, whether CIT(A) is justified in deleting the addition of Rs. 9,50,00,000/- made u/s 2(22)*

(e) as deemed dividend ignoring the fact that as per the books of the assessee the shares allotted to the assessee company by the lender company without any consideration?

2. *Whether CIT(A) is justified in not appreciating that allotment of shares without any consideration is merely to circumvent the underlying loan received through book entry by the assessee company from M/s Telecare Network Pvt. Ltd.?*
3. *Whether CIT(A) is justified in ignoring the loan statement filed by the assessee during the course of assessment proceedings which clearly shown that the assessee has received the loan amounting to Rs. 9.50 crores from M/s Telecare Network Pvt. Ltd during the F.Y. 2013-14?"*

2. The facts giving rise to the present appeal are that the return declaring 'NIL' income was filed on 26/3/2015. The case was selected for scrutiny under CASS and the assessment was framed vide 143(3) of the Income Tax Act, 1961 (hereinafter referred to as the Act'). The Assessing Officer while framing the assessment notice observed that the assessee had received total unsecured loan expenditure of Rs. 22,21,29,723/-, during the year out of which an amount of Rs. 950,000,00/- was received from M/s Telecare Network India (P), a closely held company having its office at Zen House, 261, Kohinoor Enclave, Western Marg, Saidullajab, New Delhi. The Assessing Officer was of the view that as per share

holding pattern profit and loss account and balance sheet of M/s Telecare Network India (P), shows that the assessee company had 37.22% share holding in the equity shares of M/s Telecare Network India (P), as on 31/3/2013. Therefore, the Assessing Officer treating the loan amount of Rs.9,50,000,00/- as deemed dividend u/s 2(22)(e) of the Act and added the same into the income of the assessee.

3. Aggrieved against this, assessee preferred appeal before the Ld.CIT(A) who after considering the material and examining the documents placed before him deleted the addition. Aggrieved against this, the Revenue is in appeal.

4. Ld. Sr. DR representing the Revenue vehemently argued that the Ld.CIT(A) was not justified in deleting the assessee addition. He submitted that the Assessing Officer had given a finding on fact that the transaction of 9,50,00,000/- was a loan transaction. Therefore, the Assessing Officer was justified to treat the same as deemed dividend. The Ld. Sr. DR took us through the assessment order and raised the contention that the Company namely M/s

Telecare Network India (P), had shown the amount of Rs. 9,50,00,000/- as unsecured loan as on 31/3/2014.

5. Per contra, the Ld. Counsel for the assessee opposed these submissions and supported the order of the Ld. CIT (A). He submitted that the amount was given for purchasing the share holding. The Assessing Officer has confused itself between the loan transaction and transaction for purchasing the shares. Therefore, the Ld.CIT(A) was justified and deleting the addition.

6. We have heard the rival contentions and perused all the relevant materials available on record and gone through the authorities below. We find that the Ld.CIT(A) has decided this issue by observing as under:-

“6. I have carefully considered the written submission filed by the appellant, oral arguments of the AR and the assessment order. The facts are that AO examined one of the details of unsecured loan filed during assessment proceeding and noted an amount of Rs 9,50,00,000/- as received from M/s Teleecare Network India Pvt. Ltd. and assessee company had 37.22% share holdings in the equity shares of Teleecare. Show cause notice in respect of section 2(22)(e) was issued and assessee vide letter dated 08/12/2016 informed that assessee has not received any amount from Teleecare. The AO did not agree as assessee vide letter dated 13/10/2016 had furnished list of creditors and Teleecare was included therein. It was further noted by the AO that assessee was owing Rs 4.66 crores to Teleecare at beginning of the year and further sum of Rs 9.5 crores was

received during the year and that entire amount was returned back by assessee to Teleecare during the year itself. Accordingly, addition of Rs 9,50,00,000/- was made u/s 2(22)(e).

6.1 It was submitted that AO has misunderstood the transaction as no loan/amount was received by assessee from Teleecare. It was submitted that the relevant entry was regarding receipt of shares and not of any loan amount. Assessee invested Rs 9,67,66,000/- in the shares of Teleecare as on 01/04/2013 and further, investment of Rs 9,50,00,000/- was made during the year. It was submitted that assessee vide letter dated 08/11/2016 has informed the correct position that Teleecare had freshly issued a total of 15000000 shares out of which assessee subscribed for 4750000 shares @ Rs 20 per share. It was submitted that AO somehow got confused between share purchase transaction and loans as the list of unsecured loans was submitted by assessee to AO vide letter dated 28/11/2016 and name of Teleecare was not there. Further, AO has obtained annual return of Teleecare wherein shareholding of assessee company has been duly reflected. After careful examination of factual situation and documents, it is evident that the AO proceeded on wrong assumptions.

I have examined the issue. I observe that the AO has altogether ignored the following written submissions and documents filed by the appellant during the assessment proceedings.

- 1. Letter dated 20/10/2016 and a chart containing the details of investment showing investment in shares of Teleecare amounting to Rs 9.5 crores during the year, (copies also filed before me as appendix-A1 and A2).*
- 2. Ledger A/c of Teleecare Network India Pvt. Ltd. as per books of the appellant duly confirmed by Teleecare Network India Pvt. Ltd. (copy also filed before me, as Appendix-B)*
- 3. Letter dated 08/11/2016 (copy also filed before me, marked as Appendix-C) This mentions about subscription of 4750000 shares @ 20/- per share of*

Teleecare Network India Pvt. Ltd.

4. *Letter dated 28/11/2016 (copy also filed before me, marked as Appendix- The name of parties from whom unsecured loan has been obtained by the appellant company has been mentioned in this letter. The list does not show Teleecare as lender.*

5. *Letter dated 08/12/2016 (copy also filed before me, as Appendix-E) / clarifying that the assessee has not received any loan from M/s Teleecare Network India Pvt. Ltd during the year.*

6.

6.2 *I have examined the above referred documents and noticed that appellant was having investment in shares of Teleecare Network India Pvt. Ltd. of Rs 9,67,66,000/- as on 01/04/2013 and Rs 19,17,66,000/- as on 31/03/2014. The appellant was allotted 4750000 shares @ 20/- each for Rs 9,50,00,000/- during FY 2013-14. Vide letter dated 28/11/2016, the appellant filed details regarding unsecured loans raised by it from different parties during FY 2013-14. The name of Teleecare Network India Pvt. Ltd. was nowhere mentioned in that list. The AO misunderstood the facts and treated such amount of Rs 9,50,00,000/- as fresh loan given by Teleecare Network India Pvt. Ltd to the appellant during FY 2013-14. The AO did not call for information from Teleecare Network India Pvt. Ltd as to whether it had given any fresh loan to the appellant during the FY 2013-14.*

6.3 *Vide para 20 of the written submissions filed during this proceeding and as reproduced above in this order, the appellant has explained the facts and circumstances relating to the wrong chart filed by the AR of the company alongwith letter dated 13/10/2016 during assessment proceeding, on the basis of which only, the AO formed a view that the appellant received fresh loan of Rs 9,50,00,000/- from Teleecare Network India Pvt. Ltd. during FY 2013-14 ignoring other material evidences as discussed above.*

6.4 *From investment chart, ledger account of M/s Teleecare Network India Pvt. Ltd., confirmation of account and copy of allotment return submitted during*

the assessment, it is evident that the appellant has not received any amount / loan from Teleecare Network India Pvt. Ltd and as such there does not arise any question of any addition on account of deemed dividend u/s 2(22)(e) of the IT Act, 1961. Addition of Rs. 9,50,00,000/- made by the A.O is therefore deleted.”

The above finding on fact as arrived by the Ld.CIT(A) is not rebutted by the Revenue by placing any contrary material. Therefore, we do not see any reason to interfere in the finding of Ld.CIT(A) The ground of Revenue's appeal is dismissed.

7. In the result, the appeal of the Revenue is dismissed.

Above decision was pronounced on conclusion of Virtual Hearing in the presence of both the parties on 18th January, 2022.

Sd/-

(G.S.PANNU)
PRESIDENT

18.01.2022

R. N

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Sd/-

(KUL BHARAT)
JUDICIAL MEMBER

ASSISTANT REGISTRAR

ITAT, NEW DELHI

