

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'A', NEW DELHI**

**BEFORE SH. N. K. BILLAIYA, ACCOUNTANT MEMBER
AND
SH. YOGESH KUMAR US, JUDICIAL MEMBER
(THROUGH VIDEO CONFERENCING)**

ITA No.2207/Del/2015
Assessment Year: 2011-12

M/s. Ordinary Financial Services Pvt. Ltd. 13/34, WEA Karol Bagh New Delhi-110005 PAN No.AAACO6367K (APPELLANT)	Vs	ITO Ward- 13 (4) New Delhi (RESPONDENT)
--	-----------	---

Appellant by	Sh. Anunav Kumar, Advocate
Respondent by	Sh. Kanav Bali, Sr. DR

Date of hearing:	21/02/2022
Date of Pronouncement:	21/02/2022

ORDER

PER N. K. BILLAIYA, AM:

This appeal by the assessee is preferred against the order of the CIT(A)-7, New Delhi dated 27.01.2015 pertaining to A.Y.2011-12.

2. The grievance of the assessee read as under :-

- 1 That the CIT(A) erred in upholding addition of Rs.49.00 lacs made by the AO inspite of her factual finding that M/s Kamlesh Auto Pvt. Ltd., from which company transfer entry had been received was part of Tarun Goyal Group, which was engaged in the business of providing accommodation entries and, therefore, transfer entries between the group had to be excluded and could not be considered as deemed income under section 68 of the Act.
2. That the CIT(A) also erred in not correctly appreciating the facts of the case and upholding the addition of Rs.49.00 lacs.

3. Briefly stated the facts of the case are that the assessee company is engaged in the business of investment in shares and stocks. During the course of the scrutiny assessment proceedings the assessee was asked to furnish details of the stock bought and sold during the year along with names of the persons from whom the stock were brought and sold. On receiving no plausible reply the AO proceeded to examine the facts of the case. The AO found that the assessee has received Rs.49 lacs in its bank account during the year. It was explained by the assessee that it has received Rs.49 lacs from M/s. Kamlesh Auto Pvt. Ltd. for sale of shares of M/s. GFC Finance Ltd.

4. The AO was of the firm belief that the credit of Rs.49 lacs has not been fully explained by the assessee, therefore, invoking the provisions of section 68 of the Act. The AO made the addition of Rs. 49 lacs.

5. Before the CIT(A) the assessee strongly contended that the transaction was between two related parties of the same group. The CIT(A) found that facts of the case in hand are identical to the facts of M/s. Shri Ashtha Vinayak wherein he had passed an order basis the report of the Additional DIT (Investigation) which was in respect of one Tarun Goyal who was an entry operator giving accommodation entry. Basis the finding given in M/s. Shri Ashtha Vinayak the CIT(A) confirmed the addition of Rs.49 lacs.

6. Before us the Counsel for the assessee vehemently stated that the Tribunal in a bunch of 86 appeals vide order dated 18.01.2019 has held as under :-

“17. We are of the opinion that there cannot be any profit element in intra-group transactions. We, therefore, direct the Assessing Officers to consider the transactions with outside parties only and then compute the profit.”

7. This order of the Tribunal was challenged by the revenue before the Hon'ble High Court of Delhi and the Hon'ble High Court vide order dated 12.07.2021 in ITA No.158/2020 and 163/2020 upheld the order of the Tribunal.

8. Since the impugned finding of the Tribunal (supra) were not challenged before the Hon'ble High Court the same has attained finality.

9. Respectfully, following the findings of the coordinate Bench (supra) we direct the AO to delete the impugned addition.

10. In the result, the appeal filed by the assessee is allowed.

11. The order is pronounced in the open court on 21.02.2022 in the presence of both the rival representatives.

Sd/-
(YOGESH KUMAR US)
JUDICIAL MEMBER

Sd/-
(N. K. BILLAIYA)
ACCOUNTANT MEMBER

NEHA

Date:- 21.02.2022

Copy forwarded to:

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

ASSISTANT REGISTRAR
 ITAT NEW DELHI

Date of dictation	21.02.2022
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for Pronouncement	
Date on which the fair order comes back to the Sr. PS/ PS	
Date on which the final order is uploaded on the website of ITAT	21.02.2022
Date on which the file goes to the Bench Clerk	
Date on which file goes to the Head Clerk.	
The date on which file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	