

IN THE INCOME TAX APPELLATE TRIBUNAL "B"
BENCH KOLKATA

Before Shri Sanjay Garg, Judicial Member and Shri Girish Agrawal, Accountant Member

I.T.A. No.55/Kol/2021
Assessment Year: 2013-14

Dalmia Vinimay Pvt. Ltd.....Appellant
C/o Niraj Agarwal,
115, Cotton Street,
1st Floor, Burra
Bazar, Kolkata-7
[PAN: AACCD9004E]

vs.

ITO, Ward-9(1), Kolkata.....Respondent

Appearances by:

None appeared on behalf of the appellant.

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

Date of concluding the hearing : March 29, 2022

Date of pronouncing the order : March 29, 2022

ORDER

Per Sanjay Garg, Judicial Member:

The present appeal has been preferred by the assessee against the order dated 16.12.2019 of the Commissioner of Income Tax (Appeals)-5, Kolkata [hereinafter as 'CIT(A)'] passed u/s 250 of the Income Tax Act (hereinafter referred to as the 'Act'). The assessee in this appeal has taken the following grounds of appeal:

"1. For that on the facts and in the circumstances of the case, the CIT(A) was grossly unjustified in law and on facts in dismissing the appeal ex-parte for the alleged non-compliance on the date of hearing.

2. For that on the facts and in the circumstances of the case, the order of the CIT(A) dismissing the appeal ex parte and without dealing with the grounds of appeal on merits be held unsustainable and be therefore cancelled and/or set aside.

3. For that on the facts and in the circumstances of the case, the orders of the lower authorities making arbitrary additions and/or disallowances to the returned income be held to be unsustainable and the additions/disallowances made be deleted.

4. For that on the facts and in the circumstances of the case, the addition of Rs.2,33,50,000/- made u/s 68 was factually as well as legally unsustainable and therefore the same deserves to be deleted.

5 For that on the facts and in the circumstances of the case, the authorities below were unjustified in not appreciating that the assessee had duly discharged its onus of establishing the identity, genuineness & creditworthiness of the share subscribers and in that view of the matter the addition of Rs.2,33,50,000/- made by way of unexplained cash credit u/s 68 was untenable on facts & in law.

6. For that on the facts and in the circumstances of the case, the lower authorities erred in making ad hoc disallowance of 2% of the total purchases amounting to Rs.3,80,200/- merely on surmise and conjecture and therefore the same deserves to be deleted.

7. For that the appellant craves leave to submit additional grounds and/or amend or alter the grounds already taken either at the time of hearing of the appeal or before.”

2. No one has put in appearance on behalf of the assessee despite notice through RPAD as well as through e-mail. We therefore proceed to decide the appeal on merits after going through the records and after hearing the ld. DR.

3. A perusal of the above grounds of appeal reveals that the assessee mainly has contested the addition made by the Assessing Officer of Rs.2,33,50,000/- u/s 68 of the Act on account of share application and share premium received by the assessee about which the assessee could not establish the identity, creditworthiness of the share applicants and genuineness of the transaction. The another addition made by the Assessing Officer which has been contested by the assessee is relating to the ad hoc disallowance @ 2% of the total purchases amounting to Rs.3,80,200/-.

4. At the outset, the ld. DR has invited our attention to the impugned assessment order to submit that the Assessing Officer had given adequate opportunity to the assessee to prove the identity and creditworthiness of the share applicants and genuineness of the transaction but the assessee failed to furnish any reliable evidence in this regard. Even the Assessing Officer had also called for books of accounts of the assessee to verify the purchases and since the assessee did not produce the books of accounts, the Assessing Officer made ad hoc disallowance @ 2% of the purchases.

5. Being aggrieved by the aforesaid additions made by the Assessing Officer, the assessee preferred appeal before the ld. CIT(A). However, a perusal of the impugned of the CIT(A) reveals that despite several opportunities given, the assessee did not appear before the CIT(A) and the ld. CIT(A), therefore, decided the appeal ex parte of the

assessee confirming the additions made by the Assessing Officer after having discussed in detail on the merits of the issues involved.

6. Being aggrieved by the said order of CIT(A), the assessee come in appeal before us, but again no one has put in appearance on behalf of the assessee despite notice through RPAD and as well as through e-mail id. Since the assessee neither appeared before the lower authorities nor before this Tribunal nor filed any evidence/explanation as and when called for verification of the transaction relating to share application money and purchases, therefore, we have no reason to interfere with the impugned order of the CIT(A) and the same is upheld.

7. In the result, the appeal of the assessee stands dismissed.

Kolkata, the 29th March, 2022.

Sd/-
[Girish Agrawal]
Accountant Member

Sd/-
[Sanjay Garg]
Judicial Member

Dated: 29.03.2022.

RS

Copy of the order forwarded to:

1. Dalmia Vinimay Pvt. Ltd
2. ITO, Ward-9(1), Kolkata
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches