

**IN THE INCOME TAX APPELLATE TRIBUNAL,
KOLKATA 'A' BENCH, KOLKATA**

**Before Shri Rajpal Yadav, Vice-President (KZ)
&
Shri Manish Borad, Accountant Member**

**I.T.A. No. 67/KOL/2022
Assessment Year: 2017-2018**

Blue Daisy Realcon (P) Limited,.....Appellant
C/o. Shri N.K. Goyal,
16, N.S. Road, 2nd Floor,
Kolkata-700001
[PAN: AAFCB4741D]

-Vs.-

Income Tax Officer,.....Respondent
Circle-23(1), Kolkata,
Roopma Mahal, Khadina More,
Station Road, Chinsurah,
Hooghly-712101

Appearances by:

N o n e, appeared on behalf of the assessee

Smt. Ranu Biswas, Addl. CIT, appeared on behalf of the Revenue

Date of concluding the hearing : June 16, 2022

Date of pronouncing the order : June 16, 2022

O R D E R

Per Rajpal Yadav, Vice-President (KZ):-

The assessee is in appeal before the Tribunal against the order of ld. Commissioner of Income Tax (Appeals) dated 20th December, 2021 passed for assessment year 2017-18.

2. The assessee has raised six grounds of appeal, though numbered erroneously in Form No. 36. The grounds raised by the assessee read as under:-

(1) That on the facts and circumstances of the case, the order of the Id. Commissioner of Income Tax(Appeals) is erroneous and bad in law.

(2) That on the facts of the case, the Id. CIT(Appeals) erred in concluding that the assessee has not complied with the notices of Id. Assessing Officer without really going through the online portal.

(3) That the Id. CIT(Appeals) erred in concluding that "only some of the notices were responded" and "that too did not explain the matter" where as the facts are contrary.

(4) The Id. CIT(Appeals) erred in concluding that "common directors and common transactions address" prove the manipulated transactions where as facts are that common directors and common address was because companies belonged to known persons.

(5) The Id. CIT(Appeals) based on the above in inferences, erred in upholding the huge addition of Rs.27,83,83,162/- made by Id. Assessing Officer in a high pitch assessment.

(6) That the appellant craves to add or alter any grounds of appeal during the proceedings of appeal.

3. Notice of hearing was sent to the assessee through Registered Post. But no one has come present on behalf of the assessee. Ultimately on 14.06.2022, the Bench has directed the Bench Clerk to inform the concerned person on the telephone number mentioned in Form No. 36 filed by the assessee. According to the Bench Clerk, no one has shown any interest and told him that he is busy. In other words, whosoever has attended the Phone No. i.e. 03326811542 replied to the Bench Clerk vaguely and arrogantly.

4. With the assistance of Id. D.R., we have gone through the record carefully. We find that this conduct of the assessee was identical before the Id. Assessing Officer as well as before the Id. 1st Appellate Authority. The assessee did not bother the Id. Assessing Officer during the assessment proceedings and did not submit any details. Under the above compelling circumstances, we have heard the Id. D.R. and proceed to decide the appeal *ex-parte*.

5. It is pertinent to observe that on account of inaction at the end of the assessee, the appeal would be dismissed for want of prosecution but Hon'ble Madras High Court has recently propounded that Tribunal should not dismiss any appeal for want of prosecution but should decide them on merits. Following the decision of the Hon'ble Madras High Court, we are deciding the appeal on merit.

6. Brief facts of the case are that the assessee has filed its return of income on 02.12.2017 declaring total income of Rs.922/-. The case of the assessee was selected for scrutiny assessment and a notice under section 143(2) was issued and served upon the assessee. The Id. Assessing Officer found that the assessee has shown total turnover of Rs.55,32,584/- and fresh investment in shares at Rs.27,83,83,162/-. The assessee has shown total income of Rs.922/- only. Therefore, the Id. Assessing Officer requested the assessee to furnish the details of investment in shares with source of fund and supporting evidence to substantiate its claim. According to the Id. Assessing Officer, no such details were submitted by the assessee. Thereafter the Id. Assessing Officer has discussed the affairs of companies where investment was made, according to the information available with him and made an addition of Rs.27,83,83,162/-.

7. On appeal, the Id. 1st Appellate Authority has confirmed the addition by recording the following finding:-

"5. I have carefully considered the grounds of appeal, statement of facts, assessment order and written submissions of the appellant. There is no doubt on the facts that the appellant has shown a turnover of Rs.55,32,584/- in its profit and loss account. It is also beyond any dispute that the assessee has shown investment of Rs. 27,83,83,162/- in shares of 62 companies in its balance sheet which have been reproduced by the AO in the assessment order. Further, the assessee has shown trade payable of Rs. 38,10,78,095/- in the balance sheet as on 31.03.2017 as against trade payable of Rs. 18,25,000/- as on 31.03.2016. On the other hand, total sales and purchases made during the year as per profit

and loss accounts have been shown at Rs. 55,32,584/- and Rs. 54,55,315/- respectively. In such a situation, the AO is justified in concluding that the assessee has failed to explain huge trade payable of Rs. 38.10 crore when total purchase during the year was just Rs. 54.55 lakhs and trade payable as on 31.03.2016 was just Rs. 18.25 lakhs. Further, most of the notices issued u/s 133(6) /131 to parties from whom the shares were purchased as well as the companies whose shares were purchased returned unserved. The appellant could not produce the directors of those seller companies or the companies whose shares were acquired by the assessee. Even the few companies which made compliance before the AO could not explain the transactions properly. The AO has also analysed bank transactions of the assessee and found that huge sums of moneys are being transferred in and out from the bank account of the assessee. Further, there is no dispute that the appellant has made investment to the extent of Rs. 27.83 crores in the shares of 62 companies. The AO has also analysed financials of the 62 companies and proved them to be penny stock. The assessee has failed to substantiate off-line purchases of those shares. The assessee has also failed to file verifiable details of parties appearing under head trade payables. Neither, the demat account was filed. The common addresses and common directors in several companies have been highlighted by the AO to prove the transactions as manipulated ones. Considering the entirety of facts and circumstances of the case, it is held that the investments in shares to the extent of Rs. 27,83,83,162/- has remained unexplained investment as the source and mode for acquiring those shares remained could not be explained by the appellant. In view of above, I do not have any material to interfere with the findings of the AO and the addition of Rs. 27,83,83,162/- is hereby confirmed. All the grounds of appeal filed by the appellant are hereby dismissed.

6. *Accordingly, the appeal is dismissed”.*

8. In support of the appeal, the assessee was supposed to file a statement of facts, where it could narrate the circumstances as to how the order of the Id. CIT(Appeals) is incorrect on facts and not sustainable in law. But the assessee did not file the statement of facts. Similarly it did not file any evidence for rebutting the finding of both the authorities. We are of the view that the assessee has filed the appeal for the sake of filing it without showing any interest in prosecuting it. After going through the well reasoned orders of the revenue authorities below and in absence of

any details at the end of assessee, we do not find any merit in this appeal.
It is dismissed.

9. In the result, the appeal of the assessee is dismissed.

Order pronounced in the open Court on June 16, 2022.

**Sd/-
(Manish Borad)
Accountant Member**

**Sd/-
(Rajpal Yadav)
Vice-President (KZ)**

Kolkata, the 16th day of June, 2022

- Copies to :*
- (1) ***Blue Daisy Realcon (P) Limited,
C/o. Shri N.K. Goyal,
16, N.S. Road, 2nd Floor, Kolkata-700001***
 - (2) ***Income Tax Officer,
Circle-23(1), Kolkata,
Roopma Mahal, Khadina More,
Station Road, Chinsurah, Hooghly-712101***
 - (3) ***Commissioner of Income Tax (Appeals), National Faceless
Appeal Centre (NFAC), Delhi***
 - (4) ***Commissioner of Income Tax- ,***
 - (5) ***The Departmental Representative***
 - (6) ***Guard File***

TRUE COPY

By order

***Assistant Registrar,
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata***

Laha/Sr. P.S.