

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "B" NEW DELHI**

**BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER
AND
SHRI YOGESH KUMAR US, JUDICIAL MEMBER**

**आ.अ.सं./I.T.A No.296/Del/2020
निर्धारणवर्ष/Assessment Year: 2011-12**

Frisko Global Pvt. Ltd. H.No. 27, 2 nd Floor, Najafgarh Road, Block-7, Kirti Nagar, Industrial Area, New Delhi.	बनाम Vs.	ACIT Circle 9(2), C.R. Building, New Delhi.
PAN No. AAACF6586D		
अपीलार्थी Appellant		प्रत्यर्थी/Respondent

निर्धारितीकीओरसे /Assessee by	None
राजस्वकीओरसे /Revenue by	Shri S.L. Anuragi, Sr. DR

सुनवाईकीतारीख/ Date of hearing:	13.07.2022
उद्घोषणाकीतारीख/Pronouncement on	19.07.2022

आदेश /O R D E R

PER SHAMIM YAHYA, A.M.

This is an appeal by the assessee against the order of the Ld. CIT (Appeals)-34, New Delhi dated 27.08.2019 and pertains to AY 2011-12. Various grounds have been raised in this appeal. The issues arising are as under: -

1. Challenge to Ld.CIT(A) ex-parte order;
2. Challenge to validity of reopening;
3. Addition u/s 69C for Rs.1,97,00,000/-;

4. *Addition u/s 68 for Rs.5,28,00,000/-;*

5. *Addition u/s 68 for Rs.2,02,05,000/-.*

2. The assessee in this case was originally granted stay on 17.01.2020. Thereafter, on 3 occasions none appeared on behalf of assessee. Hence, the stay was removed. Thereafter also none appeared on behalf of assessee.

3. Brief facts of the case are that the assessee is manufacturer, exporter of premium brand Mother's farm, offering quality bakery products. The Company has its corporate office in Delhi and production facility is located near Haridwar, Uttarakhand during the year under consideration. Return declaring loss of Rs.49,97,474/- was filed on 30.09.2011. Scrutiny assessment was made on 01.03.2014 u/s 143(3) of the Act at a total income of Rs.6,76,710/-. Reassessment proceeding in the case of the assessee was initiated and notice u/s 148 was issued on 30.03.2018. The reassessment proceedings were initiated on the basis of the information received from investigation wing in respect of suspicious bank transaction of the assessee company with M/s New Asia Trading Pvt. Ltd. which was having a current account in Axis Bank, Vikas Puri Branch, New Delhi. Further Sh. Avinash Bhatnagar who was also one of the Directors in the assessee company made high value transaction in various bank accounts. The AO has completed the assessment u/s 143(3)/147 vide order dated 30.12.2018 after making addition of Rs.2,02,50,000/- on account of share application money received from Sh. Avinash Bhatnagar

u/s 68, Rs.1,97,00,000/- on account of fund transferred to M/s New Asia Trading Pvt. Ltd. and Rs.5,28,00,000/- on account of transaction between the assessee company and M/s Sahara Fincorn Pvt. Ltd. Total income assessed at Rs.8,77,07,526/-.

4. Against the above order assessee appealed before the Ld. CIT(A).

5. Ex parte order: Ld. CIT(A) noted that assessee had been given 4 notices over a period of 5 months both by E-mail and Speed Post still nobody on behalf of assessee appeared or complied with the notices. Hence, he passed the ex-parte order.

5.1 In these facts the assessee's challenge to the ex-parte order that opportunity has not been granted fails.

6. Reopening: The reason of reopening was dealt with by the Assessing Officer as under:

"2. Reasons to believe : In this case, information of suspicious bank transaction (STR) has been received from the ADIT(Inv.), Unit-5(4), New Delhi vide letter F.No.ADIT(Inv.)/Unit-5(4)/2017-18/273 dated 19.03.2018 related to some financial transaction. As per the STR, M/s New Asia Trading Pvt. Ltd. has a current account, a/c no. 910020046853950, Axis Bank, Vikaspuri Branch, New Delhi. It was noticed that huge amount was credited in this account of M/s New Asia Trading Pvt. Ltd. from the assessee company, M/s Frisco Global Pvt. Ltd. later, a huge amount was credited back in the account of the assessee, M/s Frisco

Global Pvt. Ltd. from the account of M/s New Asia Trading Pvt. Ltd. total credit and debit by M/s Frisco Global Pvt. Ltd. to M/s New Asia Trading Pvt. Ltd. is as under:

Account No.	Transaction (Rs.) in FY 2010-11	
	Credit	Debit
910020046853950	2.57 Crore	60 Lacs

2.1 In this case, the assessee has filed Income Tax Return at a loss of Rs.49,97,474/- and the assessment was completed on 01.03.2014 at an income of Rs.6,76,710/-. The information received from the Investigation Wing has been considered. As per the information M/s New Asia Trading Pvt. Ltd. has declared its business in fabrics. On the other hand, the assessee, M/s Frisco Global Pvt. Ltd. is in the food industry. There seems to be no link between these two industries. In addition to this, the transactions of such large quantum between these 2 companies viz. M/s New Asia Trading Pvt. Ltd. and Ms/ Frisco Global Pvt. Ltd. do not make any sense. Further, it is mentioned in the information received from the Investigation Wing that M/s New Asia Trading Pvt. Ltd. is involved in the business of providing accommodation entry to various individuals and companies.

2.2 Keeping in view all the above, reason to believe was established on the fact that an amount at least of Rs.3,17,00,000/- has escaped assessment in case of M/s Frisco Global Pvt. Ltd. for the AY 2011-12 within the meaning of section 147/148 of the Income Tax Act, 1961.

3. Apart from this, another information in the case of Sh. Avnish Bhatnagar (AAWPB2025L) and others for the AY 2011-

12 was received to this office on 28.03.2018 which was sent by Income Tax Officer, Unit-5(2), Investigation Wing, Income Tax Department, New Delhi vide letter dated 25.03.2018.

3.1 On perusal of this letter, it was found that Sh. Avnish Bhatnagar who was also the then one of the directors in M/s Frisco Global Pvt. Ltd., M/s Sahara Fincorn Pvt. Ltd. & M/s King Power Industries Pvt. Ltd. made high value transactions in various bank accounts.

3.2 On examination of those bank accounts it was found that “the subject is transferring funds from one company to its another company. The transaction pattern seems to be unusual. For example, on different dates Sh. Avnish Bhatnagar received the amount from M/s Sahara Fincon Pvt. Ltd. and transferred to M/s Frisco Global Pvt. Ltd. huge amount of credit and debit on same day or next day and the transactions done with the purpose of rotating through the bank from one entity to another entity which does not prove any business rational.”

4. After taking into cognizance of the above mentioned information regarding Sh. Avnish Bhatnagar and in relation to M/s Frisco Global Pvt. Ltd. and duly recording the reasons to believe notice u/s 148 of the Income Tax Act, 1961 was issued to the assessee company on 30.03.2018 through speed post no. 694644502IN.”

7. The issue of reopening was dealt with by the Ld. CIT(A) as under:
- “The AO has initiated reassessment proceedings in the case of the assessee as per information of suspicious bank transaction received from the investigation wing and

another information in case of Sh. Avinash Bhatnagar who was also one of the Directors of the assessee company who had made high value transactions in various bank accounts. After taking into cognizance of above mentioned information AO has reason to believe that income has escaped assessment and assessee has not disclosed fully and truly all the necessary facts in the return of income. Therefore, AO has initiated reassessment proceedings and issued notice u/s 148 on 30.03.2018. In compliance of the notice assessee has stated that return filed on 30.09.2011 shall be treated as income tax return filed in response to notice issued u/s 148 of the Act. Thus, AO has correctly initiated reassessment proceedings in the case of the assessee.”

8. We find that due and proper reason for reopening was recorded. There is a live link between the information and the AO's reason to believe. Hence, Ld. CIT(A) has correctly confirmed the validity of reopening.

9. Apropos addition of Rs.2,02,05,000/- During the year assessee company has claimed that it has received share application money from Sh. Avinash Bhatnagar but statement of Sh. Avinash Bhatnagar was recorded by the ITO, Ward 1(3), Jaipur during his assessment proceedings for the AY 2011-12 in which he has admitted that he had no knowledge regarding the bank transactions which were going on through his bank accounts and he further stated that another person has taken his pre-signed blank cheque and was doing transaction through them. Therefore,

AO has treated share application money received from Sh. Avinash Bhatnagar as unexplained cash credit u/s 68 as assessee failed to establish creditworthiness and genuineness of the transaction. Hence, Ld. CIT(A) opined that AO has made the addition of **Rs.2,02,05,000/-** on strong footings and it was **confirmed** by Ld. CIT(A).

10. **Apropos addition of Rs.1,97,00,000/- u/s 69C:** During the year assessee company has deposited Rs.2,57,000/- into the account of M/s New Asia Trading P. Ltd. and received back Rs.60,00,000/-. M/s New Asia Trading Pvt. Ltd. was involved in the business of fabrics whereas there is huge transaction appearing in its accounts from various business companies dealing in foods, gems, jewellery, iron and steel. Assessee is in the food industry and there seems to be no link between these two industries. Further information received from the investigation wing that M/s New Asia Trading Pvt. Ltd. is involved in the business of providing accommodation entry to various individuals and companies. The assessee failed to furnish any satisfactory explanation in respect of the transaction with M/s New Asia Trading Ltd. On the basis of these reasoning Ld. CIT(A) held that the AO is justified in adding the amount of Rs.1,97,00,000/- u/s 69C of the Act as unexplained expenditure in the income of the assessee. Addition made by the AO at **Rs.1,97,00,000/-** was **confirmed**.

11. **Apropos addition of Rs.5,28,00,000/- u/s 68:** On perusal of the entries present in the bank account of M/s Sahara Fincon Pvt. Ltd. it is found that M/s Sahara Fincon Pvt. Ltd. has deposited a total amount of Rs.7,08,50,000/- and subsequently assessee company deposited Rs.1,80,50,000/- into the account of M/s Sahara Fincon Pvt. Ltd. It is observed by the AO that Sahara Fincon Pvt. Ltd. was not appearing on the website of Ministry of Corporate Affairs and name of the company was already strike off and its last balance sheet was filed on 31.03.2010. The assessee company has done huge amount of banking transaction with M/s Sahara Fincon Pvt. Ltd. and when AO has confronted this fact, the assessee company could not produced any satisfactory explanation as to why it did so many high value transactions with M/s Sahara Fincon Pvt. Ltd. Considering the above facts, the Ld. CIT(A) opined that AO is justified treating Rs.5,28,00,000/- as unexplained sum credited in the books of assessee company and adding it u/s 68 in the taxable income of the assessee. Hence, addition made by the AO at **Rs.5,28,00,000/-** was **confirmed.**

12. Against the above order assessee has filed the appeal. We find that the additions have been done correctly on proper basis. The orders of authorities below are well reasoned. In absence of any cogent explanation, we do not find any infirmity in the same. Accordingly, we hold that the order of Ld.CIT(A) does not call for any interference on our part.

13. In the result, assessee's appeal is dismissed.

Order pronounced in the open court on 19/07/2022

Sd/-
(YOGESH KUMAR US)
JUDICIAL MEMBER

sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER

Dated: 19.07.2022

**Kavita Arora, Sr. P.S.*

Copy of order sent to- Assessee/AO/Pr. CIT/ CIT (A)/ ITAT (DR)/Guard file of ITAT.

By order

Assistant Registrar, ITAT: Delhi Benches-Delhi