

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'C' BENCH, CHENNAI
श्री वी दुर्गा राव न्यायिक सदस्य एवं श्री जी. मंजुनाथा, लेखा सदस्य के समक्ष
Before Shri V. Durga Rao, Judicial Member &
Shri G. Manjunatha, Accountant Member

आयकर अपील सं./I.T.A. No. 713/Chny/2020
निर्धारण वर्ष/**Assessment Year:2012-13**

M/s. Moon Vision Private Limited,
No. 5, Haddows Road, 1st Street,
Nungambakkam, Chennai 600 006.
[PAN:AAF3852J]

The Deputy Commissioner of
Income Tax,
Corporate Circle 4(1),
Chennai.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri R. Vijayaragahavan, Advocate
प्रत्यर्थी की ओर से/Respondent by : Shri P. Sajit Kumar, JCIT
सुनवाई की तारीख/ Date of hearing : 04.08.2022
घोषणा की तारीख /Date of Pronouncement : 26.08.2022

आदेश / O R D E R

PER V. DURGA RAO, JUDICIAL MEMBER:

This appeal filed by the assessee is directed against the order of the Id. Commissioner of Income Tax (Appeals) 8, Chennai, dated 09.03.2020 relevant to the assessment year 2012-13 challenging confirmation of disallowance made under section 68 of the Income Tax Act, 1961 ["Act" in short].

2. The appeal filed by the assessee is delayed by 88 days in filing the appeal before the Tribunal due to outbreak of COVID-19 pandemic and accordingly, the delay is condoned and admitted the appeal for

adjudication.

3. Brief facts of the case are that the assessee filed its return of income for the assessment year 2012-13 on 29.09.2012 admitting a loss of ₹.2,72,56,611/-. The case was selected for scrutiny and the Assessing Officer has completed the assessment under section 143(3) of the Act by disallowing ₹.3,15,00,000/- being share application money received by the assessee. On appeal, the Id. CIT(A) confirmed the addition to the extent of ₹.2,10,00,000/- being four parties failed to furnish the bank account extract/other details.

4. On being aggrieved, the assessee is in appeal before the Tribunal. By filing confirmation letters along with bank statement from three parties, the Id. Counsel for the assessee has prayed for deleting the addition.

5. On the other hand, the Id. DR dutifully supported the order passed by the Id. CIT(A).

6. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below. In this case, the assessee has totally received ₹.4,05,00,000/- during the year as share application money from various persons. Before the Assessing Officer,

the assessee has produced confirmation only to the extent of ₹.90,00,000/- since most of the persons who have given share application money are living outside India and it was difficult to locate those people and get confirmation. Accordingly, the Assessing Officer disallowed the balance credit of ₹.3,15,00,000/- under section 68 of the Act for want of confirmation from the creditors. On appeal, the Id. CIT(A) issued notices under section 133(6) of the Act to all 9 investors to furnish confirmation along with their bank account statements, etc. Before the Id. CIT(A), out of nine investors, four investors could not furnish the bank account extract to the extent of ₹.2,10,00,000/-. Accordingly, the Id. CIT(A) confirmed the addition and deleted the balance amount.

6.1 Before us, the assessee has furnished bank statement/ extracts along with confirmation of the following persons:

- | | |
|---|---------------|
| 1. Shri Ahamed Jalaludeen Jahuber Kamal | ₹.50.00 lakhs |
| 2. Shri Noohu Mohamed Ameer Fazel | ₹.75.00 lakhs |
| 3. Shri Mohame Fairoz | ₹.60.00 lakhs |

Shri Habeeb Mohamed Mubarak Hussain has filed an affidavit by confirming the payment of share application money of ₹.25.00 lakhs and stated that he was unable to trace out the bank statement for the above said payment made by him as it relates to very old period and presently working at Dubai Airport Free Zone, Dubai, UAE. In view of the above

facts and circumstances of the case, the confirmations and affidavit filed by the parties needs examination. Accordingly, we remit the matter back to the file of the Assessing Officer to examine and decide the issue afresh in accordance with law by affording an opportunity of being heard to the assessee.

7. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on the 26th August, 2022 in Chennai.

Sd/-
(G. MANJUNATHA)
ACCOUNTANT MEMBER
Chennai, Dated, 26.08.2022
Vm/-

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

आदेश की प्रतिलिपि अग्रेषित/Copy to: 1. अपीलार्थी/Appellant, 2. प्रत्यर्थी/
Respondent, 3. आयकर आयुक्त (अपील)/CIT(A), 4. आयकर आयुक्त/CIT, 5.
विभागीय प्रतिनिधि/DR & 6. गार्ड फाईल/GF.