

**IN THE INCOME TAX APPELLATE TRIBUNAL “C” BENCH: KOLKATA**  
[Before Shri Sanjay Garg, Judicial Member & Shri Rajesh Kumar, Accountant Member]

श्री संजय गर्ग न्यायिक सदस्य एवं श्री राजेश कुमार, लेखा सदस्य के समक्ष

**I.T.A. No. 2392/Kol/2019**  
**Assessment Year : 2014-15**

ACIT, Circle-2(1), Kolkata	Vs.	M/s Pearltree Tradelink Pvt. Ltd. (now amalgamated with India Cable Net Company Ltd. ) (PAN: AABCR 4724 Q)
Appellant / (अपीलार्थी)		Respondent / (प्रत्यर्थी)

Date of Hearing / सुनवाई की तिथि	13.06.2022
Date of Pronouncement / आदेश उद्घोषणा की तिथि	01.09.2022
For the Appellant / निर्धारिती की ओर से	Shri Miraj D Shah, A.R
For the Respondent / राजस्व की ओर से	Shri Sanjay Pal, Addl. CIT

**ORDER / आदेश**

**Per Shri Rajesh Kumar, AM:**

This is an appeal preferred by the assessee against the order of the Commissioner of Income Tax(Appeals)-4, Kolkata [hereinafter referred to as ‘Ld. CIT(A)’] dated 29.03.2021 for the assessment year 2014-15.

2. The issue raised in ground no. 1 is against the deletion of addition of Rs. 150,20,00,000/- by the Ld. CIT(A) as made by the AO on account of loan creditor which remained unverified during the assessment proceedings.

3. Facts in brief are that the assessee has taken loan from Indian Cable Net Company Ltd. of Rs. 1,50,20,00,000/- with whom the assessee has amalgamated w.e.f. 31.03.2014 and Rs. 20,00,000/- was taken from Dreamline Manpower Solutions Pvt. Ltd. which was the holding company of the assessee. The assessee could not attend the proceedings before the AO and the AO added the entire loan amount to the income of the assessee whereas the assessee had filed necessary details such as ITR's, balance sheets, bank statements and other evidences relating to these transactions and also the copy of the amalgamation order passed by the Hon'ble Calcutta High Court in the case of the company.

4. The Ld. CIT(A) allowed the appeal of the assessee on the legal issue of assessment being on non-existent entity thereby quashing the assessment order and also allowed the appeal of the assessee on merit by holding that the lender company Indian Cable Net Company Ltd. was having creditworthiness to advance money with whom the assessee ultimately amalgamated and therefore the transaction of loan entry gets squared up after amalgamation. Similarly in the case of Dreamline Manpower Solutions Pvt. Ltd., the Ld. CIT(A) has given a finding that this is the holding company of the assessee company which was having adequate creditworthiness. The Ld. CIT(A) also noted that the assessment of Indian Cable Net Company Ltd. was also with the same AO and assessment was framed u/s 143(3) of the Act. Finally the Ld. CIT(A) held that in view of identity, creditworthiness and nature and source of the credit of Rs. 150.20 crores had been established and the same could not be held to be unexplained cash credit u/s 68 of the Act and deleted the addition.

5. After hearing the rival parties and perusing the material on record we find that the appeal of the revenue is not maintainable as the assessment order has been quashed by the First Appellate Authority on the ground that the assessee has been amalgamated with the Indian Cable Net Company Ltd. pursuant to the scheme of amalgamation u/s 391 to 394 of the Companies Act, 1956 w.e.f 31.03.2014 as approved by the Hon'ble Calcutta High Court vide order dated 08.05.2014. We note that the assessee filed its return of income on 07.11.2014 which was processed u/s

143(1) of the Act. Subsequently the case of the assessee was selected for scrutiny and notices u/s 143(2) and 142(1) of the Act were sent to the assessee and these notices could not be served and assessment was completed ex-parte vide order dated 31.12.2016. The Ld. CIT(A) quashed the assessment order by holding the decision in the case of Spice Infotainment Ltd. vs. CIT reported in [2011] 247 CTR 500 (Del) which has also been approved by the Hon'ble Supreme Court on 02.11.2017 and also relied various other decisions. In our opinion, the Ld. CIT(A) has quashed the assessment order on the ground of assessment was made in the case of non-existent entity which is not challenged by the Department before us. Even on merit, the loan taken from Indian Cable Net Company Ltd. with whom the assessee was amalgamated w.e.f. 31.03.2014 was having sufficient sources and there was no reason to doubt identity, creditworthiness of the lender and genuineness of the transaction. Similarly, the loan taken from Dreamline Manpower Solutions Pvt. Ltd. which has advanced Rs. 20,00,000/- is the holding company of the assessee company and was having sufficient creditworthiness, genuineness of the loan can not be doubted. Therefore even on merit there was no infirmity in the order of the Ld. CIT(A) by deleting the same.

6. The issue raised in ground no. 2 is against the deletion of addition of Rs. 1,51,10,83,171/-.

7. We observe from the record before us and also from the appellate order and rival contentions of the parties as made before us that the assessee has suo moto disallowance of Rs. 150.00 crores in the computation of income which has been disallowed by the AO while framing assessment and other expenses of Rs. 1,08,92,938/- are in the nature of direct expenses incurred in the ordinary course to run the day to day affairs of the company and Ld. CIT(A) has called remand report from the AO which was not submitted by the AO despite giving several reminders on 12.10.2018, 18.12.2018, 14.01.2019, 08.03.2019, 20.03.2019. The Ld CIT(A) finally deleted the demand by presuming the AO nothing to say the AO after considering the facts on record. We note that the AO has passed assessment without

applying his mind to the facts on record though the case was not attended by the assessee. The Ld. CIT(A) has deleted the additions after appreciating the facts on the basis of records and submissions made by the assessee which were also reiterated before us. Considering all the facts and circumstances, we are inclined to uphold the order of Ld. CIT(A).

8. In the result, the appeal of the revenue is dismissed.

Order is pronounced in the open court on 1<sup>st</sup> September, 2022

Sd/-

(Sanjay Garg / संजय गर्ग)  
Judicial Member/ न्यायिक सदस्य

Sd/-

(Rajesh Kumar / राजेश कुमार)  
Accountant Member/लेखा सदस्य

Dated: 1<sup>st</sup> September, 2022

SB, Sr. PS

Copy of the order forwarded to:

1. Appellant-ACIT, Circle-2(1), Kolkata
2. Respondent – M/s Pearltree Tradelink Pvt. Ltd., (Now amalgamated with India Cable Net Company Ltd.), J-1/15, 4<sup>th</sup> Floor, Block-EP, Salt Lake, Electronics Complex, Kolkata-700091,
3. The CIT(A)- 4, Kolkata (Sent Through E-mail)
4. Pr. CIT- Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar  
ITAT, Kolkata Benches, Kolkata