

IN THE INCOME TAX APPELLATE TRIBUNAL “F” BENCH, MUMBAI

**BEFORE SHRI S. RIFAUZ RAHMAN, AM AND
MS. KAVITHA RAJAGOPAL, JM**

ITA No. 1365/Mum/2022
(Assessment Year: 2011-12)

Dy. CIT-Central Circle-6(2) Mumbai	Vs.	Samira Habitats India Ltd. G-8, Shrikant Chambers, Sion Trombay Road, Chembur, Mumbai-400 071
PAN/GIR No. AABCS 1677 F		
(Appellant)	:	(Respondent)
Appellant by	:	Shri Gaurav Kabra
Respondent by	:	Shri Achal Sharma
Date of Hearing	:	10.08.2022
Date of Pronouncement	:	07.11.2022

ORDER

Per Kavitha Rajagopal, J. M.:

This appeal has been filed by the Revenue as against the order of the learned Commissioner of Income Tax (Appeals) - 54, Mumbai ('Id.CIT(A) for short), passed u/s.250 of the Income Tax Act, 1961 ('the Act'), pertaining to the Assessment Year ('A.Y.' for short) 2011-12. It is observed that there has been a delay of 24 days in filing the appeal and as there was reasonable cause in the delay, we hereby condone the delay.

2. The assessee company is engaged in the business of real estate. The solitary issue involved in this appeal is the deletion of the addition of Rs.4,28,70,000/- by the Id. CIT(A), which was made by the Assessing Officer ('A.O.' for short) on account of unexplained investment being deposited with Kotak Mahindra Bank, for which the

assessee has not furnished complete details, explaining the source of the said fixed deposits and also that the said investment was not proved to be recorded in the books of accounts of the assessee.

3. Brief facts of the case are that the assessee company filed its return of income for the impugned year dated 30.09.2011, declaring total income of Rs.2,37,74,450/-. Pursuant to the search and seizure action carried out on 21.03.2013 in the case of Samira Group along with its group companies, promoters and executors, notice u/s.153C of the Act was issued and served on the assessee. The assessee then filed its return of income dated 09.12.2014, declaring total income of Rs.2,37,74,450/-. The assessee's case was selected for scrutiny and notices u/s.143(2) and 142(1) of the Act and were issued on 16.03.2015 and 05.02.2015 respectively. The assessee also filed an application before the Settlement Commission dated 19.02.2015, which was rejected by the commission vide order dated 04.03.2015 u/s.245D(1) of the Act. The A.O. passed an assessment order u/s.144 r.w.s. 153C of the Act dated 27.03.2015, determining the total income at Rs.54,83,55,810/-, by making various additions/disallowances.

4. Aggrieved by the said order, the assessee preferred an appeal before the Id. CIT(A).

5. The Id. CIT(A) passed an order, confirming certain additions and deleting certain addition/disallowances. The addition pertaining to unexplained investment in time deposit was deleted by the Id. CIT(A) on the ground that the assessee has proved the source of the investment in time deposit.

6. The Revenue is in appeal before us, as against the Id. CIT(A)'s order, deleting the impugned addition.

7. The Id. Departmental Representative (Id. DR for short) for the Revenue contended that the assessee has failed to furnish the details pertaining to the party-wise breakup of the sales, income, details of purchase, etc., declared by the assessee, thereby failing to establish the source of the investment accounted in its books of account. The Id. DR relied on the order of the A.O.

8. The Id. Authorized Representative ('AR' for short), on the other hand, controverted the same and submitted that the assessee company had filed additional evidences before the Id. CIT(A), which had substantiated the assessee's claim that these were not unexplained investments. The Id. AR further stated that the current account of the assessee with Kotak Mahindra Bank reflected the receipts from the various sources which include the maturity amount of fixed deposit with the same bank. The Id. AR further contended that all the bank details were disclosed by the assessee and relied on the order of the Id. CIT(A).

9. We have heard the rival submissions and perused the material available on record. It is observed that an addition, amounting to Rs.4,28,70,000/- as multiple investment in assessee's bank account was reflected during the period from 10.05.2010 to 30.02.2011. During the assessment proceeding, the assessee was asked to explain the source of the investment and was queried as to whether the same reflected in the books of account of the assessee. The details of the time deposits with Kotak Mahindra Bank by the assessee are tabulated as under:

<i>S. No.</i>	<i>Transaction Amount</i>	<i>Transaction Date</i>
<i>1</i>	<i>1240000</i>	<i>10 May - 10</i>
<i>2</i>	<i>7200000</i>	<i>2 Feb-11</i>
<i>3</i>	<i>4000000</i>	<i>3 Feb-11</i>
<i>4</i>	<i>27110000</i>	<i>20 Jan-11</i>
<i>5</i>	<i>3320000</i>	<i>1 Feb 11</i>
<i>Total</i>	<i>42870000</i>	

10. The A.O. made addition on the impugned amount for the reason that the assessee has failed to furnish the details of the party-wise break up of sales, income, details of project, declared by the assessee along with the supporting documents. It is observed that the assessee has furnished the additional evidences during the first appellate proceedings consisting of the bank accounts of the assessee. The A.O. in his remand report has stated that the assessee has not proved the sources of the said investments. The Id. CIT(A), on the other hand, observed that the impugned amount was made by the assessee as time deposit with Kotak Mahindra Bank and also observed that the assessee was also maintaining a current account with Kotak Mahindra Bank, Chembur, Mumbai branch with A/c. No. 09602010000193.

11. The Id. CIT(A) has submitted that the time deposits are in the nature of auto sweep from the bank account and that the current account showed receipts from various sources, including the maturity amount of fixed deposits of the assessee with the same bank. The Id. CIT(A) has also held that the payment has been made by cheque from the bank account of the assessee with Kotak Mahindra Bank, thereby establishing the source of the investment in time deposit by the assessee. The Id. CIT(A) has also held that the A.O. has not justified the fact that the assessee has failed to furnish all its bank accounts. On this ground, the Id. CIT(A) held that the impugned amount is not unexplained investment in time deposit and thereby deleted the impugned addition made by the A.O.

12. From the above observation, we are of considered view that the Id. CIT(A) has perused the documentary evidence furnished by the assessee which was found to be tenable. The sources of the investment are evident from the bank account of the assessee. Considering the above, we find that there is no infirmity in the order of the Id. CIT(A) and thereby we uphold the order of the Id. CIT(A) in deleting the addition of Rs.4,28,70,000/- as unexplained investment in time deposit made by the A.O.

13. In the result, the appeal filed by the Revenue is dismissed.

Order pronounced in the open court on 07.11.2022.

Sd/-

(S. Rifaur Rahman)
Accountant Member

Sd/-

(Kavitha Rajagopal)
Judicial Member

Mumbai; Dated :

Roshani, Sr. PS

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT - concerned
5. DR, ITAT, Mumbai
6. Guard File

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai