

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH, CHENNAI**

श्री महावीर सिंह, उपाध्यक्ष एवं श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष
**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA Nos.: **125 & 126/CHNY/2022**
निर्धारण वर्ष/Assessment Years: 2009-10 & 2010-11

**Growell Hire & Purchase Finance
Ltd.,**
No.6/13, North Avenue,
Kesavaperumalpuram,
Chennai – 600 028.

The ACIT,
Vs. Central Circle - 2(3),
Chennai.

PAN : AAACG 4983H

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by
प्रत्यर्थी की ओर से/Respondent by

: Shri B. Ramakrishnan, FCA
: Shri Guru Bashyam, CIT

सुनवाई की तारीख/Date of Hearing

: 02.11.2022

घोषणा की तारीख/Date of Pronouncement

: 25.11.2022

आदेश / O R D E R

PER MAHAVIR SINGH, VICE PRESIDENT:

These two appeals by the assessee are arising out of the common order of the Commissioner of Income Tax (Appeals)-19, Chennai in ITA Nos.196 & 197 /2019-20 dated 25.01.2022. The assessments were framed by the ACIT, Central Circle 2(3), Chennai for the assessment years 2009-10 & 2010-11 u/s.143(3) r.w.s. 153A of the

Income Tax Act, 1961, (hereinafter 'the Act') vide orders of even date 30.03.2015.

2. The only common issue in these two appeals of assessee is as regards to the order of CIT(A) confirming the additions of Rs.24.99 crores in assessment year 2009-10 and Rs.32.84 crores in assessment year 2010-11, being investments made by assessee in SBQ Steels Ltd., in the equity capital, out of the sale proceeds of equity shares invested by assessee in other companies and transacted through banking channels.

3. Brief facts are that the assessee company is part of SBQ Steels Ltd., and RKKR Steels Ltd., group of companies. A search action u/s.132 of the Act was carried out in the case of assessee and its group companies, in connection with the search in the case of other concerns of Kolkata companies on 26.09.2012. Subsequently, the AO in consequence to this search issued notice u/s.153A of the Act and in response, the assessee company filed its return of income and consequently, assessments were framed. The AO noted that the assessee has made investments in share capital of its group companies i.e., SBQ Steels Ltd., and RKKR Steels Ltd., out of the

alleged claim of sale proceeds of its share investment amounting to Rs.24.99 crores in assessment year 2009-10 and Rs.32.84 crores in assessment year 2010-11. According to AO, the assessee failed to prove the identity, credit worthiness and genuineness of transaction in term of the provisions of section 68 of the Act and thereby, the AO made additions by pointing out the following:-

- (i) The assessee did not have the share capital and share premium. Their existence was not proved beyond doubt.
- (ii) The assessee did not have the capacity to command share premium as it did not have any asset backing of any kind and income of scale.
- (iii) The existence of share investments were not proved beyond doubt. Hence, the claimed sale proceeds are receipts originated from unknown sources. The only evidences were photo copies of self-made computer printed invoices whose genuineness was not proved.
- (iv) The erstwhile Directors were never produced before this office. No contact particulars, communication details were furnished. Hence, these so called Directors are only name lenders who could not be traced.
- (v) The assessee as well as its group companies did not explain how they came to know each other. Only vague replies were furnished. Hence, genuineness of the claimed business transactions, was not proved.
- (vi) Further No capital gains were ever offered. If these companies were really dealing in share investments, particularly as unquoted equities were not exempt from tax, the requisite evidences to prove the cost as well as sale price valuations must have been kept. Lack of them only point to the fact such activities were not carried out in reality.
- (vii) Complete financial documents for earlier years (beyond A.Y:2007-08) were not furnished to evidence the scale of the activities of the assessee and other similar companies.
- (viii) The alleged share holder companies as well as companies whose share investments were statedly held were all un-listed companies based at Kolkata and many share the same address.

25. In view of the above, it is held that the assessee company is only a shell/paper company. As the explanation offered by the assessee as well its group concern M/s. SBQ Steels Ltd., are not satisfactory, as described above, the claim of receipt of sale proceeds of share investments are not considered genuine. They are assessee's income from un disclosed sources. Hence, this sum of Rs.24,99,00,000/- is charged to the income of the assessee for the year. As the assessee could not establish whether any business activity was carried out, the claim of loss is disallowed/income returned is held as the income undisclosed sources and accordingly the total income and tax payable are computed as below:

Accordingly, the AO treated this as income from undisclosed sources amounting to Rs.24.99 crores in assessment year 2009-10 and Rs.32.84 crores in assessment year 2010-11. Aggrieved, assessee preferred appeal before CIT(A). The CIT(A) also confirmed the action of AO. Aggrieved, assessee is in appeal before us.

4. Now before us, the Id.AR for the assessee filed complete details in regard to shares sold by assessee of various companies and the sale proceeds arising therefrom have been utilized for investments in SBQ Steels Ltd., and its group companies, wherein assessee disclosed its share holding. The assessee also filed a petition under Rule 29 of the Income Tax Appellate Tribunal Rules, 1963 wherein it is assaulted that these evidences could not be gathered at the time of assessment or at the time of hearing of appeal before CIT(A). Later on, the assessee collected all the details like bank accounts,

copy of accounts of the companies where the assessee has made investments and also the confirmation of the parties that the investments made in earlier years were sold in this year and consequently, investment was made in SBQ Steels Ltd. The Ld.AR drew our attention to common paper-books filed and particularly, information from page Nos. 227 to 235.

5. After hearing both the sides, we noted that neither the AO nor the CIT(A) has gone into the details rather addition is made on specific statement recorded by AO during the course of search and also the share certificate issued by SBQ Steels Ltd., where assessee has made this investment. We also noted that the AO as well as the CIT(A) has not gone into the actual details of investment and sources thereof and simply by cryptic order noted that the assessee is not having identity, creditworthiness and genuineness of transaction. The assessee before us filed these details to prove the identity. He has filed the share certificates and the returns of income filed by the assessee before the Income-tax Authorities, creditworthiness that amount came from sale of its share holding in various companies and the entire transaction is through the banking channel. We noted that this needs to be examined by the AO and

hence, we after admitting these additional evidences remit the matter back to the file of the AO. These appeals of the assessee are allowed for statistical purposes.

6. In the result, both the appeals of the assessee in ITA Nos.125 & 126 /CHNY/2022 are allowed for statistical purposes.

Order pronounced in the open court on 25th November, 2022 at Chennai.

Sd/-
(मनोज कुमार अग्रवाल)
(MANOJ KUMAR AGGARWAL)
लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-
(महावीर सिंह)
(MAHAVIR SINGH)
उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,
दिनांक/Dated, the 25th November, 2022

RSR

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.