

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AMRITSAR BENCH, AMRITSAR.**

**BEFORE DR. M. L. MEENA, ACCOUNTANT MEMBER  
AND SH. ANIKESH BANERJEE, JUDICIAL MEMBER**

**I.T.A. No.167/Asr/2020  
Assessment Year: 2014-15**

M/s Skynet Infra Developers Pvt. Ltd. SCF 5 Green City, Palace Road, Bathinda. [PAN: AASCS8870P] <b>(Appellant)</b>	<b>Vs.</b>	ITO, Ward-2(1), Bathinda.  <b>(Respondent)</b>
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<b>Appellant by</b>	<b>None.</b>
<b>Respondent by</b>	<b>Smt. Ratinder Kaur, Sr. DR</b>

<b>Date of Hearing</b>	<b>08.12.2022</b>
<b>Date of Pronouncement</b>	<b>20.12.2022</b>

**ORDER**

**Per:Anikesh Banerjee, JM:**

The instant appeal of the assessee is directed against the order of the Id. Commissioner of Income Tax (Appeals), Bathinda, [in brevity the 'CIT (A)'] bearing appeal No.808-IT/CIT(A)/BTI/19-20, date of order 31.08.2020, order passed u/s 250 (6) of the Income Tax Act 1961, [in brevity the Act] for A.Y. 2014-15.

The impugned order was emanated from the order of the Id. Income Tax Officer Ward-2 (1), Bathinda, (in brevity the AO) order passed u/s 143(3)/263 of the Act date of order 26.12.2019. The assessee took the following grounds which read as under:

*“1 That the order passed under section 250(6) by the Ld. Commissioner of Income Tax (Appeals)-Bathinda in Appeal No. 808/IT/CIT(A)/BTI/19-20 dated 31.08.2020 is contrary to law and facts of the case.*

*2 That the in the facts and circumstances of the case Learned Commissioner of Income Tax (Appeals)-Bathinda gravely erred in upholding the action of the Id. Assessing Officer who had made addition of Rs. 10,00,000/- under Section 68 of the Income Tax Act on account of alleged unexplained cash credit from Late Mr Kulwant Singh.*

*3 That the appellant craves to add, amend or alter any ground of appeal before or at the time of hearing of appeal, with the permission of the Hon'ble Income Tax Appellate Tribunal, Amritsar.”*

2. Brief fact of the case is that the assessee is a property dealer. During the financial year the assessee booked advance for selling of shop from Mr. Kulwant Singh Dhillon, amount of Rs.10 lac, payment received through bank a/c. The party booked a shop from assessee for purchasing the same. The assessment was

completed and the genuineness of the party was in question. The party was already died on 06.01.2017. The payment was made by the party on 08.07.2013. The legal heir had processed the claim and due to civil dispute & had filed a case in Civil Court, Malout. The said amount is stand as credit balance in the books of the assessee. The ld. AO added back the amount with total income of the assessee. Being aggrieved, assessee filed an appeal before the ld. CIT(A). The ld. CIT(A) after detailed discussion, disallowed the same due to lack of creditworthiness for payment of the party to the assessee. Before the payment of Rs.10 lac cash amount of Rs.9 lacs was deposited by the party. So, the source of the cash deposited is in question as per the ld. CIT(A). The ld. CIT(A) upheld the observation of the ld. AO. Being aggrieved, assessee filed an appeal before us.

3. The ld. Counsel for the assessee filed a written submission and paper book which are kept in the record. The ld. Counsel argued that the assessee died on 06.01.2017. Copy of the death certificate dated 17.01.2017 is enclosed in assessee's **APB page- 3**. Further the bank account of the party Mr. Kulwant Singh Dhillon (deceased) for the period 01.04.2013 to 31.07.2013 with Bank of Baroda is enclosed in **APB, page 4**. The payment of the amount of Rs.10 lacs is clearly posted in said bank of the party. The issue was already informed during the time of assessment and copy of the letter dated 06.12.2019 duly filed by the counsel for the

assessee is enclosed in **APB page nos. 1 to 2**. Due to the legal dispute the issue is in Court of Additional Civil Judge, Senior Division, Malout in the case of Smt. Parminder Kaur daughter of late sh. Kulwant Singh Dhillon vs. M/s Skynet Infra Developers Pvt. Ltd. and Ors. Copy Civil Suit is enclosed **APB page no. 7 to 18**. Thereafter in the books of Kulwant Singh Dhillon the amount is reflected in the ledger of party. Copy of the ledger is enclosed in **APB page 6**.

4. The ld. Sr. DR only relied on the order of the ld. CIT(A) and had not made any objection in the above fact of the case.

5. We heard the rival submission and relied on the documents available on the record. In factual position it is clear that the party invested the amount in purchase of shop. The assessee is not the beneficiary in the case. The assessee has to return back the amount or has to transfer the shop in the name of the assessee. Due to the legal litigation the process of transfer is pending and the assessee has booked the amount in the credit account as advance. The ld. CIT(A) agitated the point that there is lack of creditworthiness due to the cash was deposited before payment of the amount. The fact is that the assessee is bound to sale the shop to the legal heir of the deceased assessee. The assessee is not bound to check the creditworthiness or the source of amount of investor of shop. The identity was proved. The payment was made through banking channel. Finally, the issue is before the Civil Court,

Malout. So, we find that the entire amount is duly recognized and identity of party is proved. The addition made by the ld. AO amount of Rs.10 lacs is liable to be quashed. The assessee has challenged only this point, so no other point is in adjudication. Accordingly, the ground no. 2 is allowed. Ground no.1 and 3 are general in nature.

6. In the result, the appeal of the assessee bearing **ITA No. 167/Asr/2020** is allowed.

**Order pronounced in the open court on 20.12.2022**

**Sd/-**

**(Dr. M. L. Meena)**  
**Accountant Member**

**Sd/-**

**(ANIKESH BANERJEE)**  
**Judicial Member**

**AKV**

Copy of the order forwarded to:

- (1)The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

True Copy  
By Order