

आयकर अपीलीय अधिकरण, कोलकाता पीठ 'एसएमसी', कोलकाता
IN THE INCOME TAX APPELLATE TRIBUNAL "SMC" BENCH KOLKATA

डॉक्टर मनीष बोरड, लेखा सदस्य के समक्ष
Before Dr. Manish Borad, Accountant Member

I.T.A No.42/Kol/2022
Assessment year: 2012-13

M/s Kohinoor Merchants Pvt. Ltd..... Appellant
28/1B, Bhattacharjee Para Road,
Kolkata-700063.
[PAN:AACCK8051A]

vs.

ITO, Ward-10(3), Kolkata..... Respondent

Appearances by:

None appeared on behalf of the appellant.

Shri Vijay Kumar, Addl. CIT, appeared on behalf of the Respondent.

Date of concluding the hearing : December 13, 2022

Date of pronouncing the order : December 21, 2022

आदेश / ORDER

This appeal filed by the assessee pertaining to the Assessment Year (in short "AY") 2012-13 is directed against the order passed u/s 250 of the Income Tax Act, 1961 (in short the "Act") by National Faceless Appeal Centre [in short ld. "CIT(A)"] dated 26.11.2021 which is arising out of the assessment order framed u/s 143(3) of the Act dated 26.12.2019.

2. When the case was called, none appeared on behalf of the assessee. A perusal of the appeal file shows that even after providing opportunity, the assessee failed to appear. It seems that assessee is not interested to pursue the appeal. We, therefore, decide to hear this appeal with the assistance of the ld. Departmental Representative and adjudicate the same on merits.

3. The assessee has raised the following grounds of appeal:

“1. For that the order passed by the Ld. A. O. u/s 143(3)/147 of the I. T. Act 1961 is erroneous, bad in law and liable to be cancelled or annulled.

2. For that from the facts and circumstances of the case the Ld. AO had erred in reopening of the assessment proceedings u/s 147 of the I T Act.

3. For that the Ld. A. O. had erred in treating the normal business transaction of the company done via normal banking channel as bogus and accommodation entry not being the beneficiary and to prevent revenue leakage 0.5 percent commission on bank credit entries of Rs.6,00,00,000/- which is Rs.3,00,000 /- has been added to the total income of the appellant.

4. For that the addition made for an amount of Rs. 3,00,000/- is liable to be deleted.

5. For that appellant craves to leave, alter, modify or add any of the grounds of appeal at the time of hearing or before.”

3. Brief facts of the case are that the assessee is a private limited company. Income of Rs.14,080/- was declared in the return filed on 07.12.12 for A.Y 2012-13. Based on credible information that a sum of Rs.6,00,00,000/- was received by the assessee from Sri Shyam Enterprise to its bank account held with Indian Bank and accordingly notice u/s 148 of the Act was issued on 28.03.2019. In compliance, the assessee filed the return on 04.04.2019 showing income of Rs.14,080/-. This was followed by serving of notices u/s 143(2) and 142(1) of the Act asking the assessee to explain source of the alleged receipt to which reply was submitted. After considering the reply, the ld. A.O came to the conclusion that the transactions in the bank account held with the assessee were of inflow and outflow of fund and the transactions were not with the objective of profitability but to earn commission. The ld. A.O accordingly estimated a commission income of Rs.3,00,000/-

@0.5% of the alleged sum of Rs.6,00,00,000/- and made the addition towards commission income as undisclosed income of assessed income of Rs.3,14,080/-.

4. Aggrieved, assessee preferred appeal before the ld. CIT(A) but failed to succeed.

5. Now, the assessee is in appeal before this Tribunal raising the grounds challenging the findings of the ld. A.O for reopening of the assessment proceedings and the findings of ld. CIT(A) confirming the addition made by the A.O of Rs.3,00,000/- towards commission income.

The Departmental Representative vehemently supported the order of both the lower authorities.

6. We have heard the ld. DR and perused the records placed before us.

Ground Nos.1 & 2 raised by the assessee challenges the legality of the reopening of the assessment proceedings u/s 147 of the Act. We, however, fail to find any merit in the grounds raised by the assessee, since the case of the assessee was reopened based on information received through independent sources by the A.O about unexplained receipts in the bank account. We, therefore, dismiss Ground Nos.1 & 2 raised by the assessee holding that reopening of the assessment proceedings was valid and in accordance with law.

Ground Nos.3 & 4 are regarding the addition towards undisclosed income of Rs.3,00,000/- computed by ld. A.O @0.5% of the bank credit entries of Rs.6,00,00,000/- carried out in the bank account

held with the assessee during the year and the said addition being confirmed by the ld. CIT(A) has been challenged before us. Since, the ld. A.O has estimated the income based on his observation that the inflow and outflow in the bank account are not akin to any business activity but the same are being carried out for the purpose of earning commission, we, therefore, fail to find any infirmity in the finding of the ld. CIT(A) confirming the addition made by the A.O based on facts and circumstances of this particular case. We, however, like to make it clear that our decision in confirming the finding of ld. CIT(A) of estimating commission income @0.5% of inflow and outflow of funds in the bank account should not be taken as a precedent in other similar cases as this is purely based on the facts of the instant case. Therefore, Ground Nos.3 & 4 raised on merits are dismissed.

7. In the result, the appeal of the assessee is dismissed.

Kolkata, the 21st December, 2022.

Sd/-

[डॉक्टर मनीष बोरड /Dr. Manish Borad]

लेखा सदस्य /Accountant Member

Dated: 21.12.2022.

RS

Copy of the order forwarded to:

1. M/s Kohinoor Merchants Pvt. Ltd
2. ITO, Ward-10(3), Kolkata
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches