

**IN THE INCOME TAX APPELLATE TRIBUNAL  
[ DELHI BENCH: 'F' NEW DELHI ]**

**BEFORE DR. B. R. R. KUMAR, ACCOUNTANT MEMBER  
AND  
SH. YOGESH KUMAR US, JUDICIAL MEMBER**

**I.T.A. No. 3538/DEL/2017 (A.Y 2013-14)**

DCIT, Central Circle : 19, New Delhi.  <b>(APPELLANT)</b>	Vs.	M/s. Ramji Lal Investments Pvt. Ltd., D-14/8, Model Town-II, New Delhi – 110 009.  <b>PAN No. AAACR0605B</b> <b>(RESPONDENT)</b>
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<b>Appellant by</b>	<b>Shri Vinod Bindal, C.A.; &amp; Ms. Rinky Sharma, ITP;</b>
<b>Respondent by</b>	<b>Shri Shashi Bhushan Shukla; [CIT] - D. R.;</b>

<b>Date of Hearing</b>	<b>07.12.2022</b>
<b>Date of Pronouncement</b>	<b>19.01.2023</b>

**ORDER**

**PER YOGESH KUMAR U.S., JM**

This appeal is filed by the Revenue for assessment year 2013-14 against the order of the Id. Commissioner of Income Tax (Appeals)-28, New Delhi [hereinafter referred to as CIT (Appeals)] dated 24.03.2017.

2. The Revenue has raised the following grounds of appeal:-

*“1. That the Ld. CIT (A) has erred in law and on facts in deleting the addition of Rs.5,00,00,000/- made on account of income from undisclosed source u/s 68 of the IT Act, when the creditworthiness & genuineness of the transactions remain unproved as the two companies from whom advances have shown to received had meager income not capable to advance such huge amount.*

*2. (a) The order of the CIT(Appeals) is erroneous and not tenable in law and on facts.*

*(b) The appellant craves leave to add, alter or amend any all of the grounds of appeal before or during the course of the hearing of the appeal.”*

3. Brief facts of the case are that, search and seizure action u/s 132 of the Income Tax Act, 1961 ('Act' for short) was carried out on 20/01/2014 in the business premises of Sharp Group cases. The assessee Company's business premises was also covered u/s 132(1) of the Act. The notice u/s 153A of the Act was issued to the assessee, in compliance, the assessee filed return declaring total income of Rs. 1,08,180/-. The assessment order u/s 153A/143(3) of the Act was completed on 31/03/2016 by making an addition of Rs. 5,00,00,000/- u/s 68 of the Act by treating the same as assessee's income from undisclosed sources. As against the assessment order, the assessee has preferred an appeal before the CIT (A). The Ld.CIT (A) vide order dated 24/03/2017 allowed the appeal by deleting the addition made by the A.O. u/s 68 of the Act.

4. Aggrieved by the order dated 24/03/2017 passed by the Ld.CIT(A), the Department has filed the present appeal on the grounds mentioned above.

5. The Ld. DR submitted that, the Ld.CIT(A) erred in deleting the addition of Rs. 5,00,00,000/- made on account of income from undisclosed sources u/s 68 of the Act when the creditworthiness and genuineness of the transaction remained unproved by the assessee as the two Companies from whom advances have shown to have received had meager income and not capable of advance such income. The Ld. DR further relied on the assessment order and submitted that the appeal may be allowed by confirming the assessment order.

6. Per contra, the Ld. Counsel for the assessee vehemently submitted that, the assessee has proved the identity, creditworthiness and genuineness of the two parties i.e. M/s Vedanga Vinimoy Pvt. Ltd. and M/s R P Dealers Pvt. Ltd. Further, the Ld. AR relied on the order of the CIT(A) and prayed for dismissal of the appeal.

7. We have heard the parties perused the material available on record and gave our thoughtful consideration.

8. The Ld. A.O. while making the addition has mentioned that the 'assessee has not furnished the necessary detail for ascertaining identity of the person and genuineness of advance received,' accordingly, made addition u/s 68 of the Act. During the appellate proceedings, the Ld. AR vehemently contended that the necessary details were duly filed during the course of assessment vide letter dated 16/11/2015 and the assessee had discharged its initial onus placed on the assessee u/s 68 of the Act to prove the identity, genuineness and creditworthiness of the parties and further contended that the Ld. A.O. has not made any further query to disprove the same.

9. It is found that during the course of appeal proceedings remand report has been called by the Ld.CIT(A) vide letter dated 13/12/2016 which is as under:-

*“ 2. During the course of the appellate proceedings, it was slated that copy of ITR, computation, bank statement was duly filed during the course of the assessment. The AO had never asked to provide the copy of the balance sheet of the concerned company.*

*The copy of the same along with copy of the assessment order u/s 143(3) in the case of M/s. Vedanga Vinimoy Pvt. Ltd. has been filed during the course of the appellate proceeding.*

*3. Considering above you are directed to verify and sent the report on the above issue by 13.01.2017 positively,”*

10. The Ld. A.O. vide letter dated 31/01/2017 submitted the entire report as under:-

*“ In this regard it is to mention that enquiry to be conducted in regard to the genuineness of the advance of Rs.5 Crore received from the two parties namely M/s. Vedanga Vinimoy Pvt. Ltd and M/s R.P.Dealers Pvt. Ltd submitted by the assessee before the CIT(A). Hence the remand report may be submitted after enquiry result and providing the due opportunity to the assessee.”*

And further vide letter dated 20/02/2017, filed the following report:-

*“In this regard, during the assessment proceedings, from the list of sundry creditors submitted by the assessee company it is seen that the following amounts have been received as advances against contracts.*

<i>Name</i>	<i>PAN</i>	<i>Address</i>	<i>Amount</i>
<i>RP Dealers Pvt. Ltd.</i>	<i>AABCR122J</i>	<i>7, Ganesh Chandra Avenue, 4<sup>th</sup> Floor, Kolkata</i>	<i>20,000,000.00</i>
<i>Vedanga Vinimoy</i>	<i>AAACV9110B</i>	<i>-do-</i>	<i>30,000,000.00</i>

*The assessee was issued show cause notice dated 23.03.2016, during assessment proceedings requesting it to explain the nature/purpose for receipt of such advances and also as asked earlier also, furnish the complete details/documents like complete bank statement, ITR etc. for explaining the sources of the money which has been shown as advances.*

*In response to this vide letter dated 29.03.2016 assessee submitted reply which was considered by the AO and addition of Rs. 5,00,00,000/- was made u/s 68 of the IT Act, 1961.*

*During the course of appellate proceedings, the assessee company submitted the copy of balance sheet in the case of M/s RP Dealers Pvt. Ltd. and M/s Vedanga Vinimoy Pvt. Ltd. before the IOn'ble CIT (A)-28, New Delhi. Based on documents submitted by the assessee company before the ITon'ble CIT (A), a notice u/s 133(6) of the IT Act, 1961 dated 31.01.2017 was issued to M/s RP Dealers Pvt. Ltd. and M/s Vedanga Vinimoy Pvt. Ltd. to provide the confirmation of M/s Ramji Lai Investment Pvt. Ltd. for the AY 2013-14 and also provide your copy of Auditors report, Balance Sheet, Profit & Loss A/c, notes of Final Accounts, Directors Report and ITR for the A. Y. 2013-14.*

*In this regard, M/s RP Dealers Pvt. Ltd. and M/s Vedanga Vinimoy Pvt. Ltd. submitted its reply on 17.02.2017. (copy enclosed)*

*Keeping in view of the facts , the remand report in the case of M/s Ramji Lai Investment Pvt. Ltd for A. y 2013-14 is submitted for your kind consideration”*

3.1 *The Ld AR submitted following rejoinder to the A.O report-*

*“The assessee has been asked to make his comments on the Remand Report dated 20-02-2017 submitted by the ACIT, Central Circle-19, New. Delhi in connection with additions of unexplained deposits. ' In continuation with the submissions made earlier vide letter dated 21-10-2016, it is further respectfully submitted as under:-*

2. *It may be noted for the remand report that the ACIT has not given any adverse findings about the genuineness of the advances of Rs. 5 Crores received from M/s R. P. Dealers Pvt Ltd and M/s Vedanga Vinimoy Pvt. Ltd. The ACIT issued notices u/s 133(6) of the Income Tax Act dated 31.01.2017 to the said two parties.*

3. *The said two parties have duly acknowledged the notices issued u/s 133(6) and thereafter have sent their Confirmation, Final accounts and ITR for the assessment year 2013-14. Thus these facts prove the identity, credit worthiness and genuineness of the said two parties.*

4. *Further, the ACIT has also not given any adverse comments or findings regarding the said two parties. In other words, the ACIT has accepted the identity, credit worthiness and genuineness of the*

*said two parties namely R. P. Dealers Pvt. Ltd (PAN : AABCR4122J) and Vedanga Vinimoy Pvt. Ltd (PAN : AAACV911 OB).*

*5. In view of the above facts, it is therefore prayed that the addition of Rs. 5 crores made on wrong premises may please be deleted.”*

11. After considering the remand report filed by the A.O. the Ld.CIT(A) has deleted the addition made by the A.O. It is also found that the assessee had filed loan confirmations with address, bank statement of the two parties i.e Vedanga Vinimoy Pvt. Ltd. and M/s R. R. Dealers Pvt. Ltd. showing the payment to the assessee and the photo copies of the income tax return of the said two parties. During the course of assessment proceedings vide letter dated 16/11/2015. However no enquiries were made by the A.O. during the course of the assessment proceedings. It is also found that the Ld. A.O. has made necessary enquires during the remand proceedings to verify the genuineness of the advance of 5,00,00,000/- received by the assessee from the above said two parties. The Ld. A.O. has also issued notice u/s 133(6) of the act to the aforesaid creditors. The above said parties have duly acknowledged the notice issued u/s 133(6) of the Act and thereafter they have sent their confirmation, final account and ITR for the Assessment Year 2013-14. There were no adverse comment or finding has been made by the A.O. on the above said parties. Besides the same, the assessee had proved the identity, creditworthiness and genuineness of the two parties in relation to the advance in question.

12. Considering the above facts and circumstances we are of the opinion that there is no error or legal infirmity in the order of the Ld.CIT(A) in deleting the addition made by the A.O. Accordingly, we find no merit in the grounds of appeal of the Revenue.

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

**Order pronounced in the Open Court on : 19.01.2023.**

**Sd/-  
(B. R. R. KUMAR)  
ACCOUNTANT MEMBER**

**Sd/-  
(YOGESH KUMAR US)  
JUDICIAL MEMBER**

Dated : 19/01/2023

*\*MEHTA/R.N, Sr. PS\**

Copy forwarded to :

1. Appellant
2. Respondent
3. CIT
4. CIT (Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT NEW DELHI