

IN THE INCOME TAX APPELLATE TRIBUNAL KOLKATA BENCH 'C', KOLKATA
[Before Dr. Manish Borad, Accountant Member & Shri Sonjoy Sarma, Judicial Member]

I.T.A. No. 1110/Kol/2018
Assessment Year : 2012-13

M/s. Sasmal Vincom Private Limited PAN: AARCS 4567 J	vs	ITO, Ward-5(1), Kolkata
Appellant		Respondent

Date of Hearing	21.11.2022
Date of Pronouncement	02.02.2023
For the Assessee	None
For the Revenue	Smt. Ranu Biswas, Addl. CIT, DR

ORDER

Per Sonjoy Sarma, JM:

The present appeal has been preferred by the assessee against the order of Ld. CIT(A)-10, Kolkata (hereinafter referred to as the "ld. CIT(A)" dated 30.01.2018 for A.Y. 2012-13. The assessee has raised the following grounds of appeal:

"i. The Company Sasmal Vincom Pvt. Ltd. has allotted share capital in consideration of investment made in the group companies. The said company is one of the group company out of 12 companies in the group. All the 12 companies in the group are having the same management and having same address.

All the entries in the 12 companies are contra entries on being merger of all 12 companies share capital will be cancelled by the investment and thus the company has no assets having realizable value.

All the companies in the group have neither taken any single rupee of credit from outside the group nor invested a single rupee outside the group. These facts can be ratified from the record itself. Thus there is no question of addition on the basis of contra entries only."

2. When the case was called for none appeared on behalf of the assessee. On perusal of the file, it shows that number of notices of hearing were sent including by RPAD and returned unserved by the postal department. The assessee has not filed any paper book or written submission before us, in such circumstances, it seems that assessee is not interested to contest this appeal. We, therefore, deem it proper to

adjudicate the appeal on the merits ex-parte qua on the basis of material available on record with the assistance of Id. DR.

3. Brief facts of the case are that the assessee is a private limited company and its source of income is stated to be from investment in shares. The income of the assessee has been shown as Nil while filing its e-return of income on 24.03.2014 for the assessment year in question. The case of the assessee was selected for scrutiny through CASS followed by serving of statutory notice u/s 143(2) and 142(1) upon the assessee. None appeared before the AO neither produce any document in support of such notices. Therefore, the Id. AO has no other alternative but he has assessed the income of the assessee u/s 144 of the Act. The Id. AO observed that the assessee company has received an amount of Rs. 39,99,62,800/- as a share subscription being share capital & premium from the various subscribers, while framing the assessment order, the Id. AO could not able to issue notice u/s 131 of the Act to the subscriber of the share capital and share premium in the company. Since assessee company did not appear before the Id. AO and remained silent. Therefore, the Id. AO proceeded to frame the assessment u/s 144 of the Act on the basis of material available before him and he was not satisfied with the identity, creditworthiness and genuineness of the said transaction of share capital & premium of Rs. 39,99,62,800/- received by the assessee company from the alleged subscribers/creditors. In such situation he complied to pass the assessment u/s 144 of the Act making the addition u/s 68 of the Act for unexplained cash credit of Rs. 39,99,62,800/- and also made addition u/s 14A of Rs. 1,34,200/-.

4. Aggrieved by the above order, the assessee preferred an appeal before the Id. CIT(A) challenging the impugned addition made by the Id. AO. Apart from filing the appeal, the assessee made no further efforts before the Id. CIT(A) nor has filed any other documentary evidence in support of its claim. Hence the assessee has failed to do so and the Id. CIT(A) confirmed the addition made by the Id. AO.

5. Dissatisfied with the above order, now the assessee is in appeal before the Tribunal. The assessee has failed to appear before us any of the dates fixed for hearing nor filed any documentary evidence to substantiate its claim as stated in the grounds of appeal. Therefore, it clearly indicates that the assessee is only trying to delay the proceeding and has nothing to place on record. On the other hand, ld. DR vehemently argued supporting the orders of lower authorities and prayed before us to sustain the order passed by the ld. CIT(A).

6. We have heard the ld. DR perused the material placed on record before us. In this appeal, the assessee has challenged the findings of ld. CIT(A) confirming the addition made u/s 68 of the Act of Rs. 39,99,62,800/- by the ld. AO for unexplained cash credit of share capital and security premium received during the year. We noticed that the assessee company has offered meagre income at Nil for A.Y. 2012-13. In such situation how the assessee company has been able to procure share capital & share premium at Rs. 39,99,62,800/-. In present case, the assessee did not appear before the ld. AO due to which assessing officer passed an order u/s 144 of the Act therefore statutory notice u/s 131 of the Act could not be served on the parties. During the assessment proceeding, assessee has failed to produce the alleged shareholders before the ld. AO for identity, creditworthiness and genuineness of the transaction even after providing sufficient opportunity, no submission was made either before the ld. AO and ld. CIT(A) nor before us. It has come to our notice that when the assessee was asked to explain the cash credit received by it during the assessment proceeding as well as before the ld. CIT(A), the assessee failed to file necessary details to explain the source of alleged cash credits also failed to prove identity and creditworthiness of the cash creditors as well as genuineness of the transaction as per section 68 of the Act. Beside that the assessee company has miserably failed to explain the source of alleged cash credit if assessee had sufficient details to explain the alleged sum it could have filed those details before authorities below as well as before this Tribunal. However, the assessee consistently escaping from appearing before the authorities below and even before us, it indicates that the assessee has no plausible explanation to explain the

source of alleged sum of share capital and security premium received by the assessee and miserably failed to explain the alleged cash credit, therefore, section 68 of the Act is attracted. Thus it can be said that the assessee has rooted its unaccounted income in the books of accounts in the form of share capital and security premium by arranging bogus share capital and premium through accommodation entry provider. Therefore, under this facts and circumstances, we find no infirmity in the findings of the Id. CIT(A) confirming the addition of Rs. 33,99,62,800/- made u/s 68 of the Act and addition made u/s 14A of the Act of Rs. 1,34,200/-. Therefore, the same are confirmed. Thus, the grounds of appeal raised by the assessee are dismissed.

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

Order is pronounced in the open court on 02.02.2023

Sd/-

Sd/-

(Manish Borad)
Accountant Member

(Sonjoy Sarma)
Judicial Member

Dated: 02.02.2023

Biswajit, Sr. PS

Copy of the order forwarded to:

1. Appellant- M/s. Sasmal Vincom Private Limited, 29A, Weston Street, 3rd Floor, Room No. 5C, Kolkata-700012.
2. Respondent – ITO, Ward-5(1), Kolkata.
3. Ld. CIT
4. Ld. CIT(A)
5. Ld. DR

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata