

**IN THE INCOME TAX APPELLATE TRIBUNAL  
(DELHI BENCH 'F' : NEW DELHI)**

**SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER  
and  
MS. ASTHA CHANDRA, JUDICIAL MEMBER**

**ITA No.2179/Del./2018  
(ASSESSMENT YEAR : 2009-10)**

Pearls Entertainment P. Ltd.,  
705, 7<sup>th</sup> Floor, Manjusha Building,  
Nehru Place,  
New Delhi – 110 019.

vs. DCIT, Circle 19 (2),  
New Delhi.

**(PAN : AAECF3922F)**

**(APPELLANT)**

**(RESPONDENT)**

ASSESSEE BY : None

REVENUE BY : Ms. Princy Singla, Senior DR

Date of Hearing : 08.02.2023

Date of Order : 13.02.2023

**ORDER**

**PER SHAMIM YAHYA, ACCOUNTANT MEMBER :**

This appeal by the assessee is directed against the order of Id. CIT (Appeals)-7, New Delhi dated 28.01.2018 pertaining to the Assessment Year 2009-10.

2. The grounds of appeal taken by the assessee read as under :-

“1. On the facts and in the circumstances of the case the order passed by the Ld. CIT (A) is erroneous and also bad in the eyes of law in general.

2. On the facts and in the circumstances of the case Ld. CIT(A) has erred in law by upholding the addition of rupees 2

crores made by Ld. A.O. towards share application money received from Share Applicants.

i. Without prejudice to above on the facts and in the circumstances of the case the Ld. CIT(A) has erred in confirming the addition made by Ld. A.O. without proper application of mind but mechanically accepting the finding of DG investigation framing reason to belief .for an addition of Rs. 1crore in respect of share Application money received from two Companies

ii. Without prejudice to above under the facts and in the circumstances of the case the Ld. CIT(A) has erred in law by confirming the additions of Rs. 1 crore made by the Ld. A.O. by travelling beyond Reason to belief towards share application money received from various parties without proper enquiry and verifications of the Share Application Money of the parties.

3. The Ld. CIT(A) has erred in law by upholding the findings of the Ld. A.O. towards addition without analyzing the information with reasons before invoking the prov. of Sec-68 of IT Act, 1961.

4. On the facts and in the circumstances of the case Ld. CIT(A) has erred on facts and in law by confirming the addition of Rs.4,00,000/- towards commission at rate of 2% of the amount determined by Ld. A.O. u/s 68 of the Income tax Act 1961

5. Without Prejudice to above the Ld CIT(A) has erred in law on the facts of the case by confirming the addition of Rs 4,00,000/- as commission incurred without mentioning the provision of Income tax Law.

6. Levy of interest u/s 234A and 2348 for the additions sustained by Ld CIT(A) is not tenable in law.”

3. Brief facts of the case are that the assessee filed its return of income for the A.Y. 2009-10 on 30.09.2009 declaring Nil income which

was revised on 28.09.2010 at Nil income. The return was processed u/s 143(1) of the Income-tax Act, 1961 (for short 'the Act'). Subsequently, information was received from the office of DIT, (Inv.)-II, New Delhi that the appellant had received accommodation entry by way of share capital from various companies amounting to Rs.2,00,00,000/-. The case was reopened u/s 147 and notice u/s 148 was issued on 28.03.2016. Order u/s 147/143(3) was passed on 23.12.2016 assessing the income at RS.2,04,00,000/- after addition of Rs.2,00,00,000/- on account of share application money and addition of Rs.4,00,000/- as commission expenses for share application money.

4. Upon assessee's appeal, Id. CIT (A) considered the assessee's submissions. He noted that assessee was in receipt of accommodation entry of Rs.2 crore introduced as share capital from various companies managed and controlled by Shri S.K. Jain Group. He referred to the modus operandi and the circulating/routing of money. He noted that proper documentation has not been submitted. The order of Id. CIT (A) reads as under :-

“ I have carefully considered the assessment order passed by the AO and the submissions furnished by the Ld. AR. Reassessment proceedings were initiated, as the AO had received information from the DIT(Inv.) that the appellant was in receipt of accommodation entry Rs.2,00,00,000/- introduced as share capital from the various companies, managed and controlled by Shri S. K. Jain group. The AO recorded exhaustive reasons bringing out clearly the modus operandi

whereby Shri S. K. Jain and his associated concerns/companies were providing accommodation entries to interested persons and companies. In terms of the reasons recorded, the appellant company had received an amount of Rs.2,00,00,000/- as share capital from the various companies. The appellant had filed copy of share application form, copy of Balance sheet of the various companies only. However, no bank statement and confirmation had been filed. In the annexure of investment of the Balance sheet of the applicant company name of the appellant was also not appearing. The appellant was further asked to produce the director of the alleged share applicant company which the appellant failed to do so. In such circumstances, it was held that appellant is not able to prove identity and creditworthiness as the appellant failed to file bank statement and even the Director of the share applicant company. As the appellant company could not discharge the initial onus of creditworthiness of share holder, genuineness of transaction, the AO relying on the findings of the Department in the assessments of the entry operators of Shri S. K. Jain held that the appellant has received Rs.2,00,00,000/- as share capital as accommodation entry and added the same to the total income of the appellant as unexplained investment. He further added Rs.4,00,000/- being 2% of the unexplained credit of Rs.2,00,00,000/- as commission expenses incurred by the appellant to procure the accommodation entry.

5.4. I have perused the documentation relied upon by the appellant to explain the identity, genuineness and creditworthiness of the subscribing companies. The confirmation is typical of companies engaged in providing accommodation entries. The bank account as usual records deposits and withdrawals simultaneously. The Balance sheet of the company show the same pattern i.e. meager receipt (income) with huge unexplained reserve and surplus constituted of share premium invested in unquoted shares of a large number of companies including the appellant.”

Thereafter, Id. CIT (A) dealt with various case laws and finally concluded as under :-

“ Adverting to the facts in the appellant's case, it is obvious that only documentary evidence by way of confirmation, bank statement, copy of acknowledgement of return is filed to explain the source of the impugned credit. Despite. repeated opportunities, the Director of the company was not produced before the AO. Copy of bank accounts of the company also reveals simultaneous deposits and withdrawals leading credence to the. modus operandi employed by such companies to provide accommodation entries. These facts only show that a proper trail is sought to be created to camouflage the entire transaction to introduce unaccounted income by way of share capital in the hands of the appellant company.

5.13. In view of the facts of the case and the judicial pronouncements referred above, it is apparent that the appellant has taken accommodation entry of Rs.2,00,00,000/- from the various companies. Neither genuineness of transaction nor the creditworthiness of the subscribing 'company, the onus of which rested on the appellant has been discharged. The explanation offered regarding the amounts credited in the books of accounts of the appellant has correctly been found to be unsatisfactory by the AO. Accordingly, the addition made by the AO with regard to unexplained credit of Rs.2,00,00,000/- is upheld. The AO has also brought to tax commission payment of Rs.4,00,000/- to arrange for the impugned' accommodation entry which is also part of elaborate modus operandi for obtaining accommodation entries. In view thereof, addition of Rs. Rs.4,00,000/- is in order and is confirmed. These grounds of appeal are ruled against the appellant.”

5. Against this order, assessee is in appeal before us. None appeared on behalf of assessee despite several notices. Several notices were returned unserved. Hence we are proceeding to adjudicate the issue by hearing the Id. DR for the Revenue and perusing the records.

6. As evidence from the discussion above, assessee has been in receipt of accommodation entries from concerns controlled by entry

operators, Shri S.K. Jain. Ld. CIT (A) has examined the facts and found the transaction to be accommodation entry without any iota of genuineness. Ld. CIT (A) has elaborately dealt with the issue. We do not find any need to interfere with the well reasoned order of ld. CIT (A). Hence, we uphold the same.

7. In the result, the appeal filed by the assessee stands dismissed.

**Order pronounced in the open court on this 13<sup>th</sup> day of February, 2023.**

**Sd/-  
(ASTHA CHANDRA)  
JUDICIAL MEMBER**

**sd/-  
(SHAMIM YAHYA)  
ACCOUNTANT MEMBER**

**Dated the 13<sup>th</sup> day of February, 2023  
TS**

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT(A)-7, New Delhi.
- 5.CIT(ITAT), New Delhi.

**AR, ITAT  
NEW DELHI.**