

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI "C" BENCH: NEW DELHI**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER &  
SHRI O.P.KANT, ACCOUNTANT MEMBER**

**ITA No.1566/Del/2019  
[Assessment Year : 2009-10]**

M/s. GCB Securities P.Ltd., Office No.474-475, Aggarwal Millennium Tower-2, Netaji Subhash Palace, Pitampura, New Delhi-110034. <b>PAN-AACCG4729R</b>	vs	ITO, Ward-10(1), [Previous Ward- 11(2)], New Delhi.
<b>APPELLANT</b>		<b>RESPONDENT</b>
<b>Appellant by</b>	None	
<b>Respondent by</b>	Shri Anuj Garg, Sr.DR	
<b>Date of Hearing</b>	16.03.2023	
<b>Date of Pronouncement</b>	17.03.2023	

**ORDER**

**PER KUL BHARAT, JM :**

The present appeal filed by the assessee for the assessment year 2009-10 is directed against the order of Ld. CIT(A)-35, New Delhi dated 27.12.2018.

2. The assessee has raised following grounds of appeal:-

1. *The Ld. CIT (Appeal) without giving proper opportunity of being heard, was not justified in law and facts and circumstances of the case in confirming the action of Ld. AO in making an impugned addition for Rs.60,00,000/- u/s. 68 upon the assessee.*
2. *The action of Ld. CIT (Appeal) is against the principles of natural justice in as much as passing the impugned appeal order without granting adequate opportunity of being heard to the appellant and more so where the appellant had itself prayed for an opportunity under the circumstances of the case.*

*It is gross negligence on the part of Ld. CIT(Appeals) in passing an appeal order without fully and completely looking at the facts and case laws placed on records on behalf of the appellant and calling to*

*confirm the addition just stating that no new facts was brought before her.*

*It is gross unjust on the part of Ld. CIT (Appeals) in passing appeal order against the appellant without directing Ld. AO to provide for the information and opportunity of cross examination requested from him since during assessment proceedings.*

3. *The action of Ld. CIT (Appeal) is against the principles of law in as much as dismissing the appeal of the assessee without affording it to controvert the findings of the investigation report or other material as relied upon by Ld. AO, without granting any opportunity to the assessee to deal with the same. Ld. AO failed to provide an opportunity of cross examination of any person on whose statements investigation report was drawn without any reference to the case of the assessee or to provide a copy of the investigation reports and other material despite several specific requests made on behalf of the assessee and Ld. CIT (Appeals) had erred in law in not holding the action of Ld. AO as illegal and void-ab-initio.*

*Ld. CIT (Appeals) had further erred in law in relying upon incorrect facts narrated in the impugned assessment order, which had been duly opposed and controverted before Ld. CIT (A) on behalf of the assessee, without granting any opportunity of cross examination or copy of investigation report and other material.*

*Ld. CIT (Appeals) had further erred in law in brushing aside the evidences placed on behalf of the appellants without considering the same or bringing any infirmity in the same and with just substance over form and without affording to appellant with an opportunity to deal with the substance as such.*

4. *Assessee prays to allow right to make, add, delete, modify or alter any grounds of appeal at the time of hearing.”*

3. At the time of hearing, no one attended the proceedings on behalf of the assessee. It is seen from the records that neither any one has been attending

the proceedings since 26.04.2022 nor any request has been filed for adjournment of hearing on behalf of the assessee. Under these facts, the appeal is taken up for hearing in the absence of the assessee and is being disposed off on the basis of material available on record.

4. Facts giving rise to the present appeal are that the assessee filed its return of income on 18.09.2009 amounting at INR 808/-. The return was processed u/s 143(3) of the Income Tax Act, 1961 ("the Act"). Thereafter, the assessment was re-opened u/s 147 of the Act. In response to the notice issued under section 148 of the Act, Shri Ashish Bhalla, Authorized Representative of the assessee filed his reply dated 24.1.2016. During the course of assessment proceedings, the assessee was asked to produce the Directors of M/s Shalini Holding Ltd. and M/s Ad Fin Capital Service Pvt.Ltd. The Assessing Officer ("AO") thereafter, considering the material available on records, made addition of Rs.60,00,000/- and assessed the income of the assessee at Rs.60,00,810/-.

5. Aggrieved against this, the assessee preferred appeal before Ld.CIT(A) who also sustained the addition and dismissed the appeal of the assessee.

6. Aggrieved against the order of Ld.CIT(A), the assessee is in appeal before this Tribunal.

7. Apropos to **Ground Nos. 1 to 3** raised by the assessee, Ld. Sr. DR supported the orders of the authorities below and submitted that the assessee failed to prove the genuineness and creditworthiness of the transaction related to acquisition of shares. He submitted that Investigation Wing found that these entities were part of bogus companies floated by Shri S.K. Jain. These

companies were not doing actual business but were engaged in providing accommodation entries to various beneficiaries.

8. We have heard Ld. Sr.DR and perused the material available on record and gone through the orders of the authorities below. We find that Ld.CIT(A) after considering the material on record, has given a finding on facts by observing as under:-

*4.2.3.6. "In the present case, the appellants has filed submissions which are kept on record and have been perused by the undersigned and considered. The submission of the appellant, the case laws cited and the assessment order have been considered. In this case specific information was received by the AO and the AO has conducted necessary investigations to arrive at the conclusion that the genuineness of the transactions have not been proved and neither have the same been explained. In a detailed discussion in the assessment order, the AO has correctly held that the amount of Rs. 60,00,000/- is the undisclosed income of the appellant. The submission filed by the appellant have been considered not found not to be tenable and the case laws cited by the appellant are distinguishable in facts. Hence, I find no reason to interfere with the AO on this issue.*

*4.2.3.7. In view of the discussion in paras 4.2.3.1. to 4.2.3.6 appeal on Ground Nos. 1 to 8 are dismissed."*

9. By way of this finding, Ld.CIT(A) has sustained the finding of the AO wherein he has categorically stated as under:-

*2.2. ".....In this case the assessee failed to prove the genuineness, of the transaction; therefore, addition has been made u/s 68 of the Act. In the light of the decision, it is clear that in this case, the credits arc unexplained, accordingly, the addition made in the hands of the assessee u/s 68 of the Act.*

2.3. *It is pertinent to mention here that the companies M/s. Shalini Holding Ltd. and M/s. Ad Fin Capital Services Pvt. Ltd. are bogus companies floated by Shri S.K. Jain, both the companies are not doing any actual business but are engaged in providing accommodation entries to various beneficiaries. Accordingly, an amount of Rs.60,00,000/- disallowed and added to the income of the assessee company.”*

*(Addition of Rs. 60,00,000/-)*

10. The assessee has not brought any material to rebut the findings of the lower authorities. In the absence of such material rebutting the finding of the assessee, we do not see any reason to interfere in the findings of lower authorities, the same is hereby affirmed.

11. **Ground No.4** raised by the assessee, is general in nature hence, needs no separate adjudication.

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

Order pronounced in the open Court on 17<sup>th</sup> March, 2023.

**Sd/-**  
**(O.P.KANT)**  
**ACCOUNTANT MEMBER**

*\* Amit Kumar \**

Copy forwarded to:

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

**Sd/-**  
**(KUL BHARAT)**  
**JUDICIAL MEMBER**

ASSISTANT REGISTRAR  
ITAT, NEW DELHI