

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'G', NEW DELHI**

**BEFORE SH. N. K. BILLAIYA, ACCOUNTANT MEMBER
AND
SH. C.N. PRASAD, JUDICIAL MEMBER**

ITA No.724/Del/2020
Assessment Year: 2010-11

Suksham Finlease & Investment P. Ltd. 474-475, Agarwal Millenium Tower-2, Netaji Subhash Place, Pitampura, New Delhi PAN No.AABCS0125J	Vs	ITO Ward- 24 (3) New Delhi
(APPELLANT)		(RESPONDENT)

Appellant by	Ms. Monika Agarwal, Advocate
Respondent by	Ms. Maninder Kaur, Sr DR

Date of hearing:	12/04/2023
Date of Pronouncement:	12/04/2023

ORDER

PER N. K. BILLAIYA, AM:

This appeal by the assessee is preferred against the order of the CIT(A)-25, New Delhi dated 04.12.2019 pertaining to A.Y.2010-11.

2. The grievance of the assessee read as under :-

1. *That the reassessment order dated 29.12.2017 passed U/s 143(3) r.w.s 147 of the Act of the Assessing Officer is void ab intio, bad in law, arbitrary and is perverse and the Ld. CIT (Appeal) without giving proper opportunity of being heard, is not justified in law and facts and circumstances of the case in confirming the action of Ld. A.O. in making an impugned addition for Rs. 1,02,00,000/- U/s. 68 upon the assessee.*
2. *That the reopening in the instant case is invalid as it is defective and made simply relying upon information received by Ld. A.O. from other sources without its independent verification / examination.*
3. *That the reassessment order is void ab intio as the same is not passed as per the dictum laid down by the Hon'ble Supreme Court in case of GKN Driveshaft.*
4. *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 on records before him on behalf of the appellant and calling to confirm the addition.
5. *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 the Ld. A.O. without granting any opportunity to the assessee to deal with the same. Ld. A.O. 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. A.O. as illegal and void-ab-initio.

6. *That the Assessing Officer has erred in law and on facts in making an additions of Rs. 1,00,00,000/- U/s. 68 and Rs. 2,00,000/- on account of commission paid by the Appellant.*

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 by the assessee, without granting any opportunity of cross examination or copy of investigation report and other material.

7. *The Appellant craves leave to add, delete modify or vary any of the grounds of appeal at any time during the pendency of the appeal or at the time of hearing.*

3. The Counsel for the assessee moved the following application :-

GAUTAM JAIN
Advocate

BAC LEGAL LLP
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New Delhi - 110008
Tel. : 2581 8656, 4503 2910
Direct : 2586 3818
Mobile : 98101 58456
E-mail : mail@baclegal.net
mail@bhudladia.co

Dated: 12.04.2023

Before
Income Tax Appellate Tribunal
Delhi Bench-"G"
New Delhi

In the matter of: Suksham Finlease & Investment (P) Ltd.
ITA No. 724/D/2020 (Assessee)
Assessment Year: 2010-11

Hon'ble Sir(s),

- 1 The hearing in the captioned appeal filed by the assessee is fixed for hearing today i.e. 12th of April' 2023.
- 2 It is respectfully submitted that appellant had filed a declaration in Form 1 and 2 under the Direct Tax Vivad Se Vishwas Act, 2020.
- 3 It is submitted that appellant has received Form 3 from the learned Principal Commissioner of Income Tax. **A copy of Form 3 is enclosed.**
4. It is submitted that appellant had filed Form 4 intimation of payment u/s 5(2) of the Direct Tax Vivad Se Vishwas Act, 2020. **A copy of Form 5 is enclosed.**
- 5 The appellant therefore seeks to withdraw his captioned appeal, which may kindly be allowed as such.
- 6 The assessee shall be highly grateful for kind acceptance of the prayer mentioned here-in-above.

Your, sincerely,



(Gautam Jain)

Counsel for the assessee

3. Noting the contents of the application the appeal is dismissed as withdrawn.

4. Decision announced in the open court in the presence of both the parties on 12.04.2023.

Sd/-
[C.N. PRASAD]
JUDICIAL MEMBER

Dated:12.04.2023

Neha

Copy forwarded to:

1. Appellant
2. Respondent
3. CITi
4. CIT(A)
5. DR

Sd/-
[N.K. BILLAIYA]
ACCOUNTANT MEMBER

Asst. Registrar
ITAT, New Delhi