

**आयकर अपीलीय अधिकरण, कोलकाता पीठ 'ए', कोलकाता**  
**IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH KOLKATA**

**श्री संजय गर्ग, न्यायिक सदस्य एवं श्री गिरीश अग्रवाल, लेखा सदस्य के समक्ष**  
**Before Shri Sanjay Garg, Judicial Member and Shri Girish Agrawal, Accountant Member**

**I.T.A. No.1901/Kol/2019**  
Assessment Year: 2014-15

**ACIT, Circle-2, Siliguri..... Appellant**

**vs.**

**Rakesh Sarawgi..... Respondent**

**S.P Mukherjee Road,  
Siliguri, Pin-734005.  
[PAN:AKQPS5923E]**

**Appearances by:**

Shri Siddharth Agarwal, Adv., appeared on behalf of the appellant.

Smt. Ranu Biswas, Addl. CIT-DR, appeared on behalf of the Respondent.

Date of concluding the hearing : February 07, 2023

Date of pronouncing the order : April 03, 2023

**आदेश / ORDER**

**संजय गर्ग, न्यायिक सदस्य द्वारा / Per Sanjay Garg, Judicial Member:**

The present appeal has been preferred by the Revenue against the order dated 11.04.2019 of the Commissioner of Income Tax (Appeals), Siliguri [hereinafter referred to as 'CIT(A)'] passed u/s 250 of the Income Tax Act (hereinafter referred to as the 'Act').

2. The Revenue in this appeal has taken the following grounds of appeal:

*"1. Whether the transaction not reflected in ITR and claimed to be reflected in the personal Balance Sheet can be treated as disclosed.*

*2. Whether the primary requirements in case of transaction from party like identification, creditworthiness and genuineness of the transactions can be decided in the case on the basis of Paper Book submitted by the assessee despite the fact that these papers required further verification.*

*3. Whether the CIT(A) is right in admitting fresh evidences filed before him in respect of introduce of capital in the form of Paper Book especially*

*PB-II. The CIT(A) erred by admitting fresh evidences in contravention of Rule 46A(3) of the Income Tax Rule, 1962.*

*4. For these and other grounds that may be urged at the time of hearing, the order of the CIT(A) may be set aside and that of AO revived.*

*5. That the Department reserves the right to add, delete, review, change or modify any ground in the course of hearing.”*

3. The brief facts of the case are that the Assessing Officer had made the addition of Rs.3,18,20,485/- being the amount of capital introduced by the assessee in his proprietorship concern namely M/s Shree Sai Trading Co. by treating the same as unexplained cash credit u/s 68 of the Act.

4. During the appellate proceedings, the assessee furnished the necessary documents to prove the source of the aforesaid capital. It was submitted that the source of the capital was from three different sources, namely:

(i) Refund of loans given earlier to Artex Textile (P) Ltd.

(ii) Salary received from Cubatics Texfab Pvt. Ltd. and rental income

(iii) Gift received from Sri Sandeep Sarawagi.

5. The assessee not only furnished the documents to prove the source of the capital but also furnished the documents to prove the source of the source i.e the evidence relating to earlier loans advanced by the assessee to the Artex Textile P Ltd. and also the evidence relating to salary income and rental income of the assessee and it was also submitted that the aforesaid gift amount was received from his brother in China through banking channel and in US dollars. The assessee also furnished the audited statement of accounts of his brother's company M/s G.T Overseas Co. Ltd. in which he was the sole director. The assessee also furnished the relevant documents to prove the

creditworthiness of his brother's company such as statement of account, gross turnover of the company, dividend paid etc. After admitting the additional evidences, the ld. CIT(A) called for remand report from the Assessing Officer. The ld. CIT(A), thereafter, in the impugned order, discussed the remand report in detail and gave his findings on each of the issue and found that the assessee has been able to prove the genuineness of the transactions and creditworthiness of the parties from whom the funds were received. It was observed by the CIT(A) that the assessee had received the funds back from M/s Artex Textiles Pvt. Ltd. through banking channel and even that the funds were earlier advanced to the said M/s Artex Textiles Pvt. Ltd. by the assessee through banking channel only. Even the assessee had explained the source of the funds which were advanced to the said M/s Artex Textiles Pvt. Ltd. The ld. CIT(A) also held that the assessee has also duly proved the genuineness of the gift received from the brother of the assessee namely Sri Sandeep Sarawagi and it was explained that he was based at China and he was the sole director in M/s G.T Overseas Co. Ltd. The assessee not only submitted the audited statement of accounts of the said company but also submitted gross turnover of the company and net profit and financial work of the company owned by the brother of the assessee. The PAN card and the gift certificate of the donor were also furnished. The ld. CIT(A) after analysing the entire documents held that the assessee has not only proved the source of the transaction but also the assessee had duly proved the source of the source to show that the source of the loan advanced earlier by the assessee to the said M/s Artex Textiles Pvt. Ltd. After discussing the remand report in detail and after considering the various evidences furnished by the assessee, the ld. CIT(A) reached to the irresistible

conclusion that the assessee had duly proved the source of the capital introduced by the assessee in his proprietorship concern.

6. Now, in appeal before us, the Revenue has not pointed out or contested about the correctness of finding given on any of the issues by the CIT(A). The only grievance of the Revenue, in this appeal, is that the ld. CIT(A) decided the issue after considering the evidences furnished by the assessee and without getting the same verified from the Assessing Officer. However, these grounds of the Revenue, in our view, are not factually correct. In this case, the ld. CIT(A) after admitting the evidences on the file had called remand report from the Assessing Officer and the remand report has been discussed in detailed by the CIT(A). The revenue has not pointed out as to which of the findings given by the CIT(A) was not factually correct and or which of the document furnished by the assessee was not believable. The ld. CIT(A) has discussed all the evidences in respect of loans and that the loan transactions were done through banking channel and the transactions were duly reflected in the accounts of the M/s Artex Textiles Pvt. Ltd. The grounds taken by the Revenue are vague and general. The ld. DR could not point out any infirmity in the order of the CIT(A) warranting our interference. We, therefore, do not find any merit in the appeal of the Revenue and the same is accordingly dismissed.

7. In the result, the appeal of the Revenue stands dismissed.

***Kolkata, the 3<sup>rd</sup> April, 2023.***

Sd/-

[गिरीश अग्रवाल /Girish Agrawal]  
लेखा सदस्य/Accountant Member

Sd/-

[संजय गर्ग /Sanjay Garg]  
न्यायिक सदस्य/Judicial Member

Dated: 03.04.2023.

RS

*Copy of the order forwarded to:*

1. ACIT, Circle-2, Siliguri
2. Rakesh Sarawgi
3. CIT  
(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches