

**IN THE INCOME TAX APPELLATE TRIBUNAL,
'A' BENCH, KOLKATA**

**Before Shri Rajpal Yadav, Vice-President
&
Dr. Manish Borad, Accountant Member**

**I.T.A. No. 692/KOL/2022
Assessment Year: 2015-2016**

***Income Tax Officer,.....Appellant
Ward-14(1), Kolkata,
Aayakar Bhawan Poorva (DTRTI Building),
7th Floor, Room No. 706A,
110, Shanti Pally,
Kolkata-700107***

-Vs.-

***M/s. Kamakhya Vincom Pvt. Limited,.....Respondent
Basement Room No. 6,
3B, Lal Bazar Street,
Lal Bazar, Kolkata-700001
[PAN: AADCK2899P]***

Appearances by:

*Shri Vijay Kumar, Addl. CIT, appeared on behalf of the
Revenue*

*Shri Miraj D. Shah, A.R., appeared on behalf of the
assessee*

Date of concluding the hearing : May 11, 2023

Date of pronouncing the order : June 22, 2023

ORDER

Per Shri Rajpal Yadav, Vice-President (KZ):-

The Revenue is in appeal before the Tribunal against the order of Id. Commissioner of Income Tax (Appeals),

National Faceless Appeal Centre (NFAC), Delhi dated 14th June, 2022 passed for assessment year 2015-16.

2. The Registry has pointed out that appeal of the Revenue is time-barred by seven days. Considering the smallness of the delay and explanation given by the Revenue, we condone the delay in filing the appeal and proceed to decide it on merit.

3. The solitary grievance of the Revenue is that the Id. CIT(Appeals) has erred in deleting the addition of Rs.2,33,22,450/-.

4. Brief facts of the case are that the assessee has filed its return of income on 29.09.2015 declaring total income of Rs.17,42,820/-. The case of the assessee was selected for scrutiny and a notice under section 143(2) was issued and served upon the assessee. On scrutiny of the accounts, Id. Assessing Officer has observed that in the audited statement of accounts, assessee has shown non-current investment of Rs.4,21,99,350/-. The assessee has purchased shares of M/s. Efficient Technologies Pvt. Limited. The Id. Assessing Officer has called for an information from M/s. Efficient Technologies Pvt. Limited. He made reference to the Bank account of M/s. Efficient Technologies Pvt. Limited and observed that the assessee has made payments of

Rs.1,88,06,200/-, whereas it is showing investment at Rs.4,21,99,350/-. The ld. Assessing Officer added the difference between Rs.4,21,99,350/- and Rs.1,88,76,900/- = Rs.2,33,22,450/-.

5. On appeal, ld. CIT(Appeals) has deleted the addition by recording the following finding:-

“3. Decision

3.1. Appeal has been filed against order passed by DCIT - 4(2), Calcutta who has by order dated 26.12.17 made in addition of Rs .2 33, 22450/- as unexplained investment by assessee. Assessee had invested in shares of M/s. Efficient Technologies Private Limited and had shown total investment at Rs.4,21,99350/- in its balance sheet. The assessing officer made enquiries from M/s. Efficient Technologies Private Limited who confirmed that they have received investments of only which is Rs. 1,89,02,900/- at which the assessing officer literally jump to conclusion that the balance amount of investments were from undisclosed sources and hence were liable for addition to the returned income.

3.2. Applicant has filed appeal in form number 35 dated 31.01.201 8 and has taken many grounds of appeal the primary gist of which is that assessment was bad in law as it was framed on preconceived notions without giving adequate opportunity to the assessee and that contention that disclosed investment in the audited accounts was somehow treated as undisclosed investment without giving assessee adequate opportunities to explain its case.

3.3. This office by notice dated 21.01.202 2 sought specific details from the assessee regarding the difference in the investment is as shown by in its records and as confirmed by M/s Efficient Technologies Private Limited.

3.4. From the reply of assessee it is apparent that the differential amount was purchase by the appellant of shares of M/s. Efficient Technologies Private Limited from other parties to which payment has been made by cheque and hence the amount has been disclosed as investment in which books. The content of enquiry made by AO would seem to be only the direct investment made by the assessee

in the above said company and not the shares purchase rate from other 3rd parties. From the perusal of the reply filed by the assessee it would be apparent that 1st of all there has been no undisclosed investment in the books of assessee and secondly even taking into account the fact that the recipient of investment should have migrated the shares in the name of assessee but did not report this detail to the assessing officer it would still seem clear that no investment was made from undisclosed sources and as such addition on this account appears to be bad in law.

3.5. As a result appeal of assessee is allowed in addition made by the assessing officer is hence deleted.

*Sd/-
Commissioner of Income-tax (Appeals)
Income Tax Department”.*

6. With the assistance of Id. Representatives, we have gone through the record carefully. The stand of the assessee was that it has made investment at Rs.4,21,99,350/-. It has never claimed that this total acquisition of shares of M/s. Efficient Technologies Pvt. Limited was made from the company. The stand of the assessee is that it has acquired shares from outside parties, who are holding the shares of M/s. Efficient Technologies Pvt. Limited. In other words, according to the assessee, it has purchased shares directly from M/s. Efficient Technologies Pvt. Limited having value of Rs.1,89,02,900/-. The rest of the shares were purchased from outsider parties. The assessee has demonstrated that it has made payment through account payee cheques. The Id. Assessing Officer has misdirected himself by harping upon the information of M/s. Efficient Technologies Pvt. Limited only. The Id. Assessing Officer

has made certain assumptions of unexplained investment without verifying the accounts and claim of assessee in right perspective. Therefore, we do not find any error in the finding of Id. CIT(Appeals).

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

Order pronounced in the open Court on June 22, 2023.

**Sd/-
(Manish Borad)
Accountant Member**

**Sd/-
(Rajpal Yadav)
Vice-President(KZ)**

Kolkata, the 22nd day of June, 2023

- Copies to :
- (1) Income Tax Officer,
Ward-14(1), Kolkata,
Aayakar Bhawan Poorva (DTRTI Building),
7th Floor, Room No. 706A,
110, Shanti Pally, Kolkata-700107
 - (2) M/s. Kamakhya Vincom Pvt. Limited,
Basement Room No. 6,
3B, Lal Bazar Street,
Lal Bazar, Kolkata-700001
 - (3) Commissioner of Income Tax (Appeals),
National Faceless Appeal Centre (NFAC), Delhi;
 - (4) Commissioner of Income Tax ,
 - (5) The Departmental Representative
 - (6) Guard File

TRUE COPY

By order

Assistant Registrar
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata

Laha/Sr. P.S.