

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

श्री संजय गर्ग, न्यायिक सदस्य एवं श्री मनीष बोरड, लेखा सदस्य के समक्ष
Before Shri Sanjay Garg, Judicial Member and Dr. Manish Borad, Accountant Member

I.T.A No.806/Kol/2018
Assessment year: 2012-13

Walzen Strips Pvt. Ltd..... Appellant
P-250, CIT Road,
Scheme VI M,
Kolkata-700054.
[PAN: AAACW2444B]

vs.

DCIT, Circle-9(2), Kolkata..... Respondent

Appearances by:

None appeared on behalf of the appellant.

Shri B. K. Singh, JCIT- Sr. DR, appeared on behalf of the Respondent.

Date of concluding the hearing : August 03, 2023

Date of pronouncing the order : September 04, 2023

आदेश / ORDER

मनीष बोरड, लेखा सदस्य द्वारा / Per Manish Borad, Accountant Member:

This appeal at the instance of the assessee pertaining to the Assessment Year (in short "A.Y") 2012-13 is directed against the order of the Commissioner of Income Tax (Appeals)-2, Kolkata [in short Id. "CIT(A)"] dated 24.01.2018 which is arising out of the order u/s 143(3) of the Assessing Officer dated 28.03.2015.

2. The registry has informed that there is delay of 10 days in filing the appeal and application for condonation of delay has not been filed. The impugned order is dated 24.01.2018. There is no representation on behalf of the assessee before this Tribunal on past many occasions. However, in the larger interests of justice and considering the possible

delay in receiving the impugned order by the assessee, we condone the delay and admit the appeal for adjudication on merits.

3. Sole ground of appeal raised by the assessee is that the ld. CIT(A) erred in confirming the addition of Rs.45,00,000/- made by the Assessing Officer for unexplained share capital raised during the year. The ld. departmental representative vehemently argued supporting the order of both the lower authorities.

4. We have heard the ld. DR and perused the records placed before us. We notice that the assessee is a private limited company and is engaged in business of manufacturing cold rolled and high tensile strips. Nil income declared in the e-return filed on 24.09.2012 for assessment year 2012-13. After the case selected for scrutiny under CASS and followed by servicing of valid notice u/s 143(2) and 142(1) of the Act, the ld. Assessing Officer examined the financial statement and observed that the assessee has issued 22500 shares at a face value of Rs.100/- per share and also charged a premium of Rs.100/- per share and received total fund of Rs.45,00,000/-. The Assessing Officer asked the assessee to explain the nature of source of the said sum. We observe that the alleged sum was received from following three parties:

(i) Rudraprayag Ganga Commodities Pvt. Ltd.	Rs.1500000/-
(ii) Tomorrow Sales Agencies Pvt. Ltd.	Rs.2000000/-
(iii) Midas Securities Ltd.	<u>Rs.1000000/-</u>
Total	Rs.4500000/-

The ld. Assessing Officer noticed that the assessee company is suffering huge losses and the alleged transaction lacked genuineness and the creditworthiness of the share applicant remained in doubt.

The Assessing Officer accordingly made addition u/s 68 of the Act at Rs.45,00,000/-. We further notice that the assessee carried the matter before the ld. CIT(A) but failed to succeed. The ld. CIT(A) observed that a company which has been recently incorporated not having any track record, does not, in any way, justify a premium of Rs.100/- per share. No due diligence was done by the subscribing companies before making the investment in the assessee company. The ld. CIT(A) also observed that certain documents were filed but genuineness of the transaction could not be substantiated. Placing reliance on various decisions referred in the impugned order, the ld. CIT(A) came to a conclusion that the Assessing Officer has rightly invoked the provisions of section 68 of the Act for making the impugned addition.

5. We notice that section 68 of the Act requires the assessee to explain the nature and source of credit entry appearing in the books of account during the year and if the explanation offered by the assessee, is not in the opinion of the Assessing Officer is found satisfactory, then such sum is to be charged to income tax as income of the assessee. For explaining the nature and source before this Tribunal, the assessee is required to furnish complete documents including identity proof, bank statement, income tax return, audited balance sheet and profit & loss account of the assessee company as well as the subscribing companies. In the absence of such documents, a finding of fact cannot be arrived at as to whether the identity and creditworthiness of the share applicants and genuineness of the transaction is proved. It is evident that the assessee company has incurred huge loss and as observed by the Assessing Officer, it is the initial year of incorporation and commanding of premium of Rs.100/- on each share does not seem to be a genuine. It is also not evident as

to what prompted the alleged share applicant to invest the alleged sum in the assessee company's equity. Before us, there is no representation on behalf of the assessee nor any written submissions and paper-book has been filed. Therefore, on going through the assessment order and the impugned order, we find that the assessee has miserably failed to explain the nature and source of the alleged sum and thus, the Assessing Officer has rightly invoked the provisions of section 68 of the Act. Thus, no interference is called for in the finding of ld. CIT(A) and Ground No.1 raised by the assessee is dismissed. Ground No.2 is general in nature.

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

Kolkata, the 4th September, 2023.

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

Sd/-
[डॉक्टर मनीष बोराड /Dr. Manish Borad]
लेखा सदस्य /Accountant Member

Dated: 04.09.2023.

RS

Copy of the order forwarded to:

1. Walzen Strips Pvt. Ltd
2. DCIT, Circle-9(2), Kolkata
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches