

THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR BENCHES : NAGPUR

(THROUGH VIRTUAL HEARING)

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER

AND

SHRI GD PADMAHSHALI, ACCOUNTANT MEMBER

ITA.No.91/Nag./2018
Assessment Year 2012-2013

Assistant Commissioner Of Income Tax Central Circle-1(1), Nagpur	vs.	M/s. Nitin Coal Pvt. Ltd. A-2/4, Vijayanand Society, Near Lokmat, Dhantoli, Nagpur-440010
PAN: AACCN8206E		
(Appellant)		(Respondent)

For Assessee :	None
For Revenue :	Shri Rishi Kumar Bisen, DR

Date of Hearing :	29.08.2023
Date of Pronouncement :	21.09.2023

ORDER

PER SATBEER SINGH GODARA, J.M.

This Revenue's appeal for A.Y. 2012-13, arises against the CIT(A)-3, Nagpur's order dated 23.02.2018, passed in Case No.CIT(A)-3/78/2016-17, in proceedings under section 143(3) r.w.s. 147 of the Income Tax Act, 1961 ["In short Act"].

2. Heard both the parties. Case file perused.

3. The Revenue raises the following substantive grounds in the instant appeal:

- “ 1. *On the facts and circumstances of the case and in law, the Ld. CITA) erred in deleting the addition of Rs. 70 lakhs being unexplained cash credit u/s 68 of the IT Act, 1961.*
2. *On the facts and circumstances of the case and in law, the Ld. CIT(A) failed to establish the creditworthiness of the creditors and genuineness of the transactions while deleting the additions on technical grounds and failing to appreciate that the same were not proved to the satisfaction of AO.*
3. *On the facts and circumstances of the case and in law, the CIT(A) failed to appreciate that details of reserve and surplus were not given in case of A.S.V Pvt. Ltd and in other case reserve and surplus comprises of premium only.*
4. *On the facts and circumstances of the case and in law, the CITA) has failed to appreciate that the companies from whom share and premium was received did not have the creditworthiness to fund the share capital and premium and thereby neither the creditworthiness nor the genuineness of transaction is proved.*
5. *On the facts and circumstances of the case and in law, the Ld. CIT(A) failed to appreciate the ground realities and documents in case of shell companies which are always in order so that they can act as a conduit in aiding tax evasion.*
6. *On the facts and circumstances of the case and in law, the Ld. CIT(A) has failed to appreciate that the two key ingredients in making addition u/s 68 namely creditworthiness of creditors and genuineness of the transactions were not proved to the satisfaction of the A.O.”*

4. The Revenue could hardly dispute the clinching fact that its sole substantive grievance seeking to revive Section 68 unexplained cash credit addition of Rs.34,97,610/- only as per the relevant column in Form 36 herein; involves less than the minimum prescribed tax effect threshold limit of Rs.50 lakhs as per the CBDT’ s latest Circular No.17 of 2019 dated 08/08/2019 made

applicable to all pending appeals as well. The Revenue could hardly dispute any exception thereto in its above extracted grounds. This appeal is rejected in very terms. Ordered accordingly.

5. This Revenue's appeal is dismissed in above terms.

Order pronounced in the open court on 21.09.2023

Sd/-

[GD PADMAHSHALI]
ACCOUNTANT MEMBER
Pune, Dated 21.09.2023

S.K.SINHA

Sd/-

[SATBEER SINGH GODARA]
JUDICIAL MEMBER

True Copy

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1.	The appellant
2.	The respondent
3.	The Ld. CIT(A) concerned.
4.	The CIT concerned
5.	D.R. ITAT, Nagpur Bench, Nagpur
6.	Guard File.

//By Order//

Assistant Registrar,
ITAT, Pune Benches, Pune.