

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

**BEFORE SH. SHAMIM YAHYA, ACCOUNTANT MEMBER
AND
SHRI KUL BHARAT, JUDICIAL MEMBER**

ITA No.1081/DEL/2018
(Assessment Year : 2013-14)

Matra Kaushal Enterprises Ltd., Flat No.702-E, Al-Karim Trade Centre, Ranigunj, Secundrabad, Telangana-03 PAN No. AACCP 8660 N (APPELLANT)	Vs.	ITO Ward – 16(3) Hyderabad (RESPONDENT)
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Assessee by	-None-
Revenue by	Ms. Raja Rajeshwari R., Sr. D.R.

Date of hearing:	16.11.2023
Date of Pronouncement:	21.11.2023

PER SHAMIM YAHYA, AM :

This appeal filed by the assessee is directed against the order of Learned Commissioner of Income Tax (Appeals)-4, Hyderabad dated 30.11.2017 pertaining to Assessment Year 2013-14.

2. The grounds of appeal filed by assessee, which reads as under:

1. *On the facts and in the circumstances of the case, the Commissioner of Income Tax (Appeals)- IV erred in upholding the order of the re- assessment under Section 143(3) of the Income Tax Act, 1961 passed by the Respondent herein.*
2. *The learned Commissioner of Income Tax (Appeals) erred in adding the amount of Rs. 25 Lakhs as unexplained credit of the Appellant without specifying the section under which such addition was made.*
3. *The learned Commissioner of Income Tax (Appeals) ought to have appreciated that the said amount of Rs. 25 Lakhs was the share*

investment made by one M/s. Gawaraja Merchants Pvt. Ltd., in M/s. Koushalya Global Limited. The said M/s. Koushalya Global Limited was amalgamated with the Appellant Company by the orders of the Hon'ble High Court of Andhra Pradesh dated 16-09-2012. Consequently the learned Commissioner ought to have appreciated that the issue of investments in M/s. Koushalya Global cannot be questioned after the passing of the amalgamation order of the Hon'ble High Court.

4. *The learned Commissioner of Income Tax (Appeals) ought to have appreciated that the said share capital was received from M/s. Gawaraja Merchants Private Limited was through banking channel and share certificates were also issued to the Company.*
5. *The learned Commissioner of Income Tax (Appeals) ought to have appreciated that the identity and genuineness of the transaction is not in doubt and the addition of Rs. 25 Lakhs cannot be made. The confirmation letter produced by the Appellant was not even considered by the CIT(A).*
6. *The observation of the learned Commissioner of Income Tax (Appeals) at paragraph 5.2 et seq are perverse and irrelevant. No such report was ever given to the authorized representative or its representative and at any rate such alleged report has no bearing on the issue involved in the present appeal.*
7. *The learned Commissioner of Income Tax (Appeals) ought to have appreciated that the said amount of Rs. 25 lakhs was received in the previous year relevant to the assessment year 2012-13 and cannot be added in the assessment year 2013-14.*

For the aforesaid grounds and other grounds that may be urged at the time of hearing, the Appellant humbly prays that the Hon'ble Tribunal may be pleased to set aside order dated 30-11-2017 passed by the Commissioner of Income Tax (Appeals) IV and pass such further or other order(s) as the Hon'ble Tribunal deems fit and proper in the circumstances of the case.”

3. The brief facts of the case are during the year under consideration AO observed that M/s Koushalya Global Limited was amalgamated with the assessee company and the said amalgamation was approved by the Hon'ble

High Court w.e.f 16.09.2012. After this amalgamation, fresh capital was introduced by the assessee company and accordingly, the capital has gone up from Rs.3.43 crores to Rs. 20.17 crores. The details of the share capital of the amalgamated company and the details of investors for the fresh capital were called for and verified by the AO. AO observed that as seen from the investor's details M/s Gawaraja Merchants Pvt. Ltd with address P-27, Prince Street, 3rd Floor, Kolkata invested Rs.25,00,000/- as share capital in the assessee company. On enquiries, it came to light that the said investor is not available at the address mentioned. No confirmation in respect of this investment of Rs.25,00,000/- was received. When questioned, the assessee company submitted that the transaction is genuine and the money was received through banking channels and since they are not in good terms presently with the investor, no confirmation could be obtained. Finally, the assessee submitted that they could not furnish the confirmation. Accordingly, the AO held that amount of Rs.25,00,000/- is treated as unexplained credit and added as such.

4. Upon assessee's appeal, learned CIT(A) confirmed the addition by upholding the order of learned AO. Learned CIT(A) also dealt with the assessee's plea that share application money was received in the previous year relevant to assessment year 2012-13 by giving following directions:

“5.4 With regard to additional ground of money received in the previous year relevant to assessment year 2012-13 and not in assessment year 2013-14. The Assessing Officer is directed to verify this aspect and if it pertains this assessment year i.e. 2013-14 to be treated as confirmed, otherwise necessary action may be taken in assessment year 2012-13 accordingly.”

5. Against the above order, assessee is in appeal before us.

6. We have heard learned DR. None appeared on behalf of the assessee. Upon careful consideration, we find that assessee has received share application money of Rs.25,00,000/- from the Kolkata based company which is not found at the address mentioned. No confirmation for the same has also been provided. In these circumstances, there is no infirmity in the order of authorities below. Further it is important to note that if the money has not been received in the present assessment year the addition would not be sustainable. We fully upheld the order of learned CIT(A) in this regard.

7. In the result, appeal of the assessee is partly allowed for statistical purposes.

Order pronounced in the open court on 21.11.2023

Sd/-

**(KUL BHARAT)
JUDICIAL MEMBER**

Date:- 21.11.2023

*Priti Yadav, Sr. PS**

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Sd/-

**(SHAMIM YAHYA)
ACCOUNTANT MEMBER**

ASSISTANT REGISTRAR
ITAT NEW DELHI