

**आयकर अपीलीय अधिकरण, कोलकाता पीठ 'सी', कोलकाता**  
**IN THE INCOME TAX APPELLATE TRIBUNAL "C" 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.1014/Kol/2023**  
**Assessment Year: 2009-10**

**M/s Prarambh Multitrade Pvt. Ltd.....Appellant**  
**Room No.401A,**  
**154, Lenin Sarani,**  
**Kolkata-700013.**  
**[PAN: AACCP8985C]**

**vs.**

**ITO, Ward-2(1), Kolkata..... Respondent**

**Appearances by:**

Shri Miraj D. Shah, Advocate, appeared on behalf of the appellant.

Shri Manas Mondal, Addl. CIT-Sr. DR, appeared on behalf of the Respondent.

Date of concluding the hearing : December 06, 2023

Date of pronouncing the order : January 02, 2024

**आदेश / ORDER**

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

The present appeal has been preferred by the assessee against the order dated 24.08.2023 of the National Faceless Appeal Centre (hereinafter referred to as the 'CIT(A)') passed u/s 250 of the Income Tax Act (hereinafter referred to as the 'Act').

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

*"1. That the Order passed u/s 250 is bad in law as well as on facts of the case.*

*2. That the Hon'ble Commissioner of Income Tax (A) - NFAC erred in law as well as on facts of the case by not providing reasonable opportunity of hearing to the appellant company.*

*3. That the Hon'ble Commissioner of Income Tax (A) -NFAC erred in law as well as on facts of the case was wrong in deciding the case on merits only and did not deal the legal issues pray to him.*

*4. That the Hon'ble Commissioner of Income Tax (A) - NFAC erred in law as well as on facts of the case by not considering the fact that case was reopened on the basis of reasons recorded for making addition u/s 68 but the addition was made u/s 41 of the Income Tax Act, 1961.*

*5. That the Hon'ble Commissioner of Income Tax (A) - NFAC erred in law as well as on facts of the case in not dealing the grounds of appeal in respect of non-disposal of objections before passing the assessment order.*

*6. That the Hon'ble Commissioner of Income Tax (A) - NFAC erred in law as well as on facts of the case by confirming the addition made by the Learned Assessing Officer by making addition of sundry creditors of Rs.2,22,65,000/- by invoking the provision of section 41(1) and making addition by treating the aforesaid amount as cessation of liability.*

*7. That the appellant craves to leave, add, amend or adduce any of the grounds of appeal during the course of appellate proceedings.”*

3. The assessee in this appeal is aggrieved by the action of the CIT(A) in confirming the addition made by the Assessing Officer of Rs.2,22,65,000/- u/s 41(1) of the Act on account of cessation of liability in respect of sundry creditors shown by the assessee.

4. At the outset, the ld. counsel for the assessee has invited our attention to the balance sheet of the assessee as on 31.03.2009 read with schedule 7 of the said balance sheet to submit that the assessee had shown an amount of Rs.22,266,239/- under the head 'current liabilities' and further a perusal of the schedule 7 would show that an amount of Rs.2,22,65,000/- has been shown as advance against shares. The assessee during the year had received advance of Rs.17200000/- from Mangalam Multitrade Pvt. Ltd. and further an amount of Rs.15,700,000/- was received from Vankatesh Sales Pvt. Ltd., out of which shares for an amount of Rs.10,650,000/- were

sold/allotted during the year to the said Vankatesh Sales Pvt. Ltd. Therefore, the assessee had an advance of Rs.22,250,000/- from the said two parties for sale of shares. The ld. AR, in this respect, has relied upon ledger account of Vankatesh Sales Pvt. Ltd. in the books of the assessee and also of the Mangalam Multitrade Pvt. Ltd. in the books of the assessee. The ld. AR, therefore, has demonstrated that in fact it was not a case of any cessation of liability, rather, the assessee had received advance against sale of shares from the aforesaid parties. However, the Assessing Officer misconstrued himself to treat the said amount as sundry creditors. Moreover, the Assessing Officer has wrongly stated that there was any cessation of liability. The ld. AR has demonstrated neither these were sundry creditors nor there was any cessation of liability.

5. Though the ld. DR has expressed his doubts about the genuineness of the transactions but nonetheless, he could not rebut on the fact that it was not a case of any cessation of liability.

6. In view of the above, the additions made by the Assessing Officer are not justified as per the facts of the case and the same are accordingly ordered to be deleted.

7. In the result, the appeal of the assessee stands allowed.

***Kolkata, the 2<sup>nd</sup> January, 2024.***

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

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

Dated: 02.01.2024.

RS

*Copy of the order forwarded to:*

1. M/s Prarambh Multitrade Pvt. Ltd
2. ITO, Ward-2(1), Kolkata
3. CIT (A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches