

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'SMC': NEW DELHI**

**BEFORE,
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

**ITA No.2857/Del/2023
(ASSESSMENT YEAR 2012-13)**

Ganesh Builders Private Limited C-52, Second Floor Naraina Vihar New Delhi-110 028 PAN-AAACG 0887G	Vs.	Income Tax Officer Ward-10(1) Delhi
(Appellant)		(Respondent)

Assessee by	Sh. Baldev Raj, CA and Sh. Manees Upneja, CA
Department by	Sh. Om Parkash, Sr. DR

Date of Hearing	17/01/2024
Date of Pronouncement	17/01/2024

ORDER

This appeal of the Assessee arises out of the order of the Learned Commissioner of Income Tax (Appeals)-National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'Ld. CIT(A)'] in DIN & Order No. ITBA/NFAC/S/250/2023-24/1055401824(1) dated 24/08/2023 against the order passed by Income Tax Officer, Ward-10(1), New Delhi (hereinafter referred to as the 'Ld. AO') u/s 143(3)/147 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') on 15/12/2019.

2. The only issue to be decided in this appeal on merits is as to whether the addition could be illegally and factually made in the hands of the assessee u/s 68 of the Act in respect of alleged receipt on sum of money Rs.19,00,000/- in the facts and circumstances of the instant case. Apart from this, the assessee has challenged the validity of the reassessment proceedings.

3. I have heard the rival submissions and perused the materials available on record. The assessee is a Private Limited Company and had filed its regular return of income on 27/06/2019 for the A.Y.2012-13 declaring total income of Rs.13,75,052/-. The return was duly processed u/s 143(1) of the Act. The Ld. AO received information from the Dy. Director of Income Tax (Inv.), Wing, Unit-1(2), Kolkata on 08/03/2019 that the assessee has received accommodation entry of Rs.19,00,000/- from M/s Shubh Supplier Ltd.. The said information did not contain the date of receipt of money by the assessee and did not contain the bank account in which such sums were found credited in the books of the assessee. The assessee vehemently pleaded before the Ld. AO that it had not received any such sum of Rs. 19,00,000/- from M/s Shubh

Supplier Ltd. or any other company controlled by Sh. Beni Prasad Lahotia. In respect of this contention, the assessee also enclosed the complete bank statements for the perusal of the Ld. AO. The Ld. AO, however did not heed to this factual contention of the assessee and proceeded to treat the sum of Rs.19,00,000/- as unexplained cash credits u/s 68 of the Act in the hands of the assessee.

4. Before the Ld. CIT(A), no compliance was made by the assessee and *ex-parte* order was passed by the Ld. CIT(A) confirming the action of the Ld. AO. It is a fact that assessee has furnished the entire bank statements of Bank of India and the Axis Bank for the period of 01/04/2011 to 31/03/2012 before the Lower Authorities and the same were also placed on record before me. From the perusal of the said bank statements of both the banks, there was no receipt of money to the tune of Rs.19,00,000/- which was found credited in the bank accounts of the assessee. Hence, the basic pre-requisite of any sum found credited in the books of account to warrant an addition u/s 68 of the Act miserably fails in the instant case. Hence, I hold that no addition per se could be made u/s 68 of the Act and that the entire addition has been made merely on

surmise and conjecture without referring to the factual position and the materials available on record. Hence, the addition made u/s 68 of the Act is hereby directed to be deleted.

4. Since, relief is granted to the assessee on merits, the other ground challenging the validity of re-assessment proceedings is not being adjudicated and the same is hereby left open.

5. In the result, the appeal filed by the Assessee is allowed

Order pronounced in the open court on 17th January, 2024.

Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated: 17/01/2024

Pk/sps

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI