

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**MUMBAI BENCH "B" MUMBAI**

**BEFORE SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)**  
**AND**  
**SHRI PAVAN KUMAR GADALE (JUDICIAL MEMBER)**

**ITA No.1929/MUM/2021**  
**Assessment Year: 2011-12**

M/s. Chandan Realtors Pvt.  
Ltd.  
102, Parekh Building  
N.G. Acharya Marg  
Chembur, Mumbai-400 071  
Maharashtra  
**PAN NO.AACCC1129M**  
**Appellant**

Income Tax Officer  
– 14(1)(3)  
**Vs.** Mumbai  
Aayakar Bhavan  
M.K. Marg  
Mumbai – 400 020  
**Respondent**

**Assessee by** : Shri Kirit Sheth  
**Revenue by** : Shri Ashok Kumar  
Ambastha

Date of Hearing : 21/12/2023  
Date of pronouncement : 24/01/2024

**ORDER**

**PER OM PRAKASH KANT, AM**

This appeal on behalf of M/s Chandan Realtors P Ltd (i.e. a company which has been struck off from records of Registrar of Companies ) is directed against order dated 24/09/2021 passed by the ld. Commissioner of Income-Tax (Appeals)- National Faceless



Appeal Centre, Delhi (in short Id. CIT(A) for A.Y.2011-12, raising following grounds:-

*“1. The learned CIT(A) has erred in confirming the validity of notice issued u/s. 148 and consequently the validity of the impugned order passed u/s. 143 (3) r.w.s. 147.*

*Your appellant respectfully submits that the notice u/s. 148 and consequently the impugned order u/s. 143 (3) r.w.s. 147 are invalid and deserves to be annulled*

*2. The learned CIT (A) has erred in confirming the addition u/s. 68 to the extent of Rs. 3,03,00,000*

*Your appellant respectfully submits that, on facts and in law, the addition of Rs. 3,03,00,000 is unjustified and should therefore be deleted.*

2. The briefly stated facts of the case are that the ‘company’ did not file its return of income for the year under consideration in terms of Section 139 of the Income Tax Act, 1961 (in short ‘Act’). On receipt of the information by the Id. Assessing Officer that the company had made payments of Rs. 2.10 Crores for the purpose of acquiring an immovable property and other transactions of Rs.88 lakhs carried out through its bank account, the Id. Assessing Officer recorded the reasons to believe that income escaped assessment. After obtaining necessary approval from the appropriate authorities, the Id. Assessing Officer reopened the assessment by way of issuing notice u/s.148 of the Act on 23/03/2018, directing the assessee to file return of income. In response to said notice, the return of income was filed on behalf of the assessee on 04/04/2018 declaring ‘Nil’ total income. Further, objections were raised before the Assessing Officer against reopening of the assessment mainly on the ground that the assessee company was struck off from the



Registrar of companies and was dissolved on 16/06/2017, therefore, notice issued on a non-existent entity was invalid. The Id. Assessing Officer however, noted that during the year under consideration the assessee had carried out transactions of purchase of immovable property and assessee retained a valid Permanent Account Number (PAN), thus, merely struck off of name from the office of Registrar of companies, did not render the assessee company as 'non-existent'. The Id. Assessing Officer informed that there is a provision in the Companies Act, 2013 for revival of the company within 20 years from the date of struck off from the Registrar of the Companies. He further informed that while striking off by the Registrar of Companies, the assessee should have objected. Thereafter, the Id. Assessing Officer completed the re-assessment and made addition u/s.68 of the Act amounting to Rs.3,03,00,000/- for credit entries appearing in bank account of assessee company. On further appeal, on behalf of the assessee company before the Id. CIT(A) , it was challenged that assessment could not be made on a dead person. The assessee also challenged additions on merit. The Id. CIT(A) rejected the grounds challenging the validity of the re-assessment in view of the decision of the Hon'ble Supreme Court in the case of **CIT- Jaipur vs. Gopal Shri Scrips (P) Ltd. 104 taxmann.com 192(SC)**, wherein it is held that *the assessment order in the case of defunct company cannot be held to be invalid in view of the provision of Section 560(5) proviso (a) of the Companies Act as well as Chapter XV of the Income Tax Act. As*



far as merit of the addition is concerned, the Id. CIT(A) upheld the same in view of no source of deposit explained by the assessee for credits appearing in its bank account. Aggrieved, the appeal has been filed before the Tribunal on behalf of the assessee company challenging that notice u/s.148 and the consequent assessment order passed is invalid being passed on non-existent entity. The addition on merit has also been challenged.

3. Before us, the assessee has filed a paper book containing pages 1-32. The assessee also filed a copy of the various provisions of the Companies Act, 2013.

4. The ground No. 1 of the appeal relates to challenge of notice u/s 148 of the Act and impugned assessment order. The facts essential for disposing the issue-in-dispute of invalidity of notice issued u/s.148 are summarised as under:-

(i) The company M/s Chandan Realtors Pvt. Ltd was incorporated as a private limited company under the Companies Act, 1956 on 04/04/2001. But, the company has been struck off by the Registrar of Companies on 16/06/2017 by invoking his power u/s.248(1) r.w.s. 248(5) of the Companies Act,2013.

(ii) Notice u/s.148 of the Act for reopening of the assessment has been issued by the Assessing Officer on 27/03/2018. Reopening of assessment was objected on behalf of the assessee, stating that Assessee Company was struck off and dissolved and therefore, it



was not in existence and hence, notice issued on non-existent or dead person was invalid. The ld. Assessing Officer however rejected the objection of the assessee observing as under:-

*“8. Assessee's name was struck off by Registrar of Companies on 16.06.2017 sue moto because the assessee did not comply with the provisions of Companies Act also. The assessee had not informed the ROC that assessment proceedings for AY 2010-2011 were in progress against him which could have resulted in continuation of the assessee company The assessee cannot deny the fact that it had deposited money in bank source of which was not explainable. The assessee was very well aware that this may result in demand against it. The ROC has struck off the assessee company under section 248 of the Companies Act 2013 without considering the fact that assessment proceedings are pending and demand is outstanding in assessee's case. The appeal against the struck of company can be filed under section 252 of the Companies Act and the assessee company can be revived upto 20 years as per due procedure of law. In this case, the unexplained bank deposit of Rs. 2.10 crores, if remained un-assessed will result in escapement of income and due revenue to the government.*

*9. As discussed above, it is a fact that*

*(i) the assessee had made bank deposits, source of which is not explained by it in the A.Y 2010-2011*

*(ii) It had entered into transaction of acquisition of property*

*(iii) the above information was in possession of the assessing officer, on the basis of which he has formed his reasons to believe that the income has escaped assessment.*

*(iv) the assessee was duly aware that it had made property transaction and made bank deposits and that the assessment*



*proceedings are under progress against It. Despite these facts, if had not objected for struck of its name by ROC with a sole intention to avoid assessment proceedings.*

5. Before us, a revised Form No.36 has been filed modifying the name of the appellant as Shri Subhash Jain, Director of erstwhile Company namely M/s Chandan Realtors Pvt. Ltd . The Id. Counsel Sh Kirit Sheth, appearing on behalf of Sh Subhash Jain, submitted that present appeal might be decided on the basis of revised Form No.36 filed on 23/12/2022. He submitted that Section 253(1)(a) of the Act lays down that any assessee aggrieved by the order of Id.CIT(A) can appeal before the Tribunal. He further referred that the term 'assessee' has been defined in section 2 (7) of the Act means a person by whom any tax or any other sum of money is payable under this Act. He submitted that Section 179 of Act lays down that any tax due from a private limited company can be recovered from its directors if it cannot be recovered from the company. He submitted that by cumulatively applying those provisions in the present case, Shri Subhash Jain, who could be called upon to pay the tax dues of non-existent Chandan Relators Pvt Ltd, therefore, he is an assessee who is aggrieved by the order u/s 250 dated 24/09/2019 passed by the Id.CIT (A) in the case of Chandan Realtors Pvt. Ltd.

5.1 He further referred to the decision of the Hon'ble Madras High Court in the case of Pandian Anbalagan vs. ITO in W.P.No.11841 of 2022 & W.M.P No.11278 of 2022 dated 03/10/2023 and Hon'ble



Bombay High Court in the case of Jitendra Chandralal Navlani and Anr vs Union of India in W.P. No.1069 of 2016 dated 08/06/2016 wherein writ petitions were filed by the erstwhile director of the companies after the company names were struck off by the Registrar from his records. The ld. Counsel therefore, submitted that Shri Subhash Jain is also similarly placed i.e. it is an appeal by an erstwhile director of a non-existent company and hence deserved to be entertained and adjudicated.

5.2 The ld. Counsel submitted that in the case of Pandian Anbalagan vs. ITO (supra) and Jitendra Chandralal Navlani and Anr vs Union of India (supra) the respective Hon'ble High Courts have categorically held that notice issued u/s.148 and order passed u/s.143(3) r.w.s. 147 in the name of a non-existent company after its name is struck-off by the registrar from his records is invalid and unsustainable. The ld. Counsel attempted to distinguish the judgment of the Hon'ble Supreme Court in the case of CIT- Jaipur vs. Gopal Shri Scrips (P) Ltd. (supra) by way of submitting that in the said case the company name was struck off by the registrar on 07/04/2011 i.e. after the ITAT, Jaipur bench passed its order on 28/04/2000 and during the period when the matter was further agitated before the Hon'ble Rajasthan High Court and the company was very much in existence at the time of passing the assessment order and therefore, the facts of the present case are totally different from the facts in the case of Gopal Shri Scrips Pvt Ltd (supra)



hence, ratio laid down in that case cannot be applied in deciding the present appeal.

6. On the contrary, the ld. DR submitted that the company has not been liquidated and it is in existence even today and only it has been stricken off from the registrar of companies , which could be restored back either on an appeal by any aggrieved person within a period of three years before the National Company Law Tribunal (NCLT) u/s.255(1) of the Companies Act, 2013 or on an application by any of its member, creditor or workmen u/s 255(3) of Companies Act, 2013, within the period of 20 years from the date of publication of notice u/s.248(5) for the restoration of the name of the company. The ld. DR submits that if according to the assessee the company was non-existent, then the company can't give any authority to any one for representing either before the ld. Assessing Officer or before the appellate authorities and only the alternative which was available with the member of the company or the director of the company was to take action in terms of Section 252(1) or 252(3) of the companies Act, 2013, for restoration of the name of the company in the registrar of companies. The ld. DR further submits that in view of the decision of the Hon'ble Supreme Court in the case of Gopal Shri Scrips (P) Ltd (supra), despite the status of the company being stricken off from the registrar of the companies, in view of exception under section 250 of Companies Act, 2013 for discharging of any liability or obligations of the company, certificate



of incorporation of the company was valid. The ld. DR submits that said section 250 of Companies Act, 2013 give authority to the Income Tax department for issue of notice even on company stricken off from the registrar of companies and assessee cannot take shelter of said provisions. According to him, though the company was struck off from the registrar of the companies, its asset and liabilities were lying with the company and bank accounts were alive. Thus, the ld. Assessing Officer is within his powers to issue notice u/s.148 and complete the assessment on the assessee company under exception provided in section 250 of Companies Act, 2013.

7. We have heard rival submissions and perused the relevant material on record. In the case before us first issue is whether the appeal filed on behalf of the company is maintainable or not. The ld Counsel for the assessee submitted that on earlier occasion on being questioned on the maintainability of appeal, the form No. 36 has been revised in the name of Director of the company and claimed that he is entitled to file appeal on behalf of the struck off company in view of provisions of section 179 of the Act as he is liable for paying the demand raised in the case of struck off company, and therefore he should be considered as assessee for the purpose of filing of appeal. However, we find that section 250 of the Companies Act, 2013 has made it clear that the company shall not be deemed as dissolved and certificate of incorporation shall be



continued for the purpose of discharge of the liabilities or obligation of the Company. For ready reference, the section 250 of the Companies Act, 2013 is reproduced as under:

**“250. Effect of company notified as dissolved.—** Where a company stands dissolved under section 248, it shall on and from the date mentioned in the notice under sub-section (5) of that section cease to operate as a company and the Certificate of Incorporation issued to it shall be deemed to have been cancelled from such date except for the purpose of realising the amount due to the company and for the payment or discharge of the liabilities or obligations of the company.”

7.1 Since filing of appeal in tax dispute before the ITAT is a liability or obligation of the assessee Company, therefore, in view of unambiguous and clear provisions of section 250 of Companies Act, 2013, it is not deemed to be dissolved or the certification of incorporation is not cancelled to that extent, thus, in such a case an appeal filed on behalf of the company is maintainable. We find that Coordinate Bench of the Tribunal in the case of **Dwarka Porfolio P Ltd in ITA No. 2563/Del/2017** has in similar circumstances held the appeal filed on behalf of the company as maintainable. The relevant finding of the Tribunal (supra) is reproduced as under:

*13. When it comes to recovery of tax due from the struck off Company, the Department of Revenue has power either to invoke Section 226(3) of the Income Tax Act or can invoke Section 179 of the Income Tax Act and recover from the Directors after testing whether non recovery is attributed to any gross neglect misfeasance or breach of duty on the part of Directors. The Department can also invoke both 226(3) and 179 simultaneously for which there is no bar.*

*14. Now, the moot question arises as to ‘whether the Tribunal can proceed with the appeal filed by the struck down Company or filed by the Revenue against the struck off Company ?’. In other words, whether the struck off Company can be treated as alive/operative/existing for the*



*purpose of adjudication of the tax arrears and the consequence order by which the recovery proceedings are triggered by the Revenue.*

*15. If the proceedings pending before the Court or the Tribunal (regarding determination of quantum the tax/liability of paying the tax) is dismissed for having become in-fructuous without adjudicating the actual tax dues or the liability of the assessee to pay such tax in the manner known to the Law and based on the such dismissal of the proceedings, if the Revenue proceeds for the recovery of the 'such tax due', the rights of the Directors of the Company will be seriously jeopardy and the same will amount to denial of the rights guaranteed under the Law.*

*16. In the instant Appeal, if we allow the request of the Revenue dismiss the Appeal as in-fructuous, one hand the appeal will be dismissed having become in-fructuous on the other hand, the Revenue Department will initiate proceedings under Section 179 of the Income Tax Act and that too without even adjudicating in the manner prescribed under Law on the 'quantum of actual tax due' or 'liability to pay tax', in such even great in justice will be caused, which cannot be permitted.*

*17. When the Revenue Department has not forgone the right to recover tax due or Written-off the demand on the ground of Company being struck off by the ROC, the right of the assessee to determine the tax liability in due process of law cannot be denied by dismissing the Appeal pending before us.*

*18. Further, in a case where the CIT(A) deletes the addition made by the A.O and if Revenue files Appeal before the Tribunal, even in a case where the Revenue is having a water tight case on merit, by dismissing the Appeal for having become in-fructuous will also result in non adjudication of the actual tax due by the assessee and the Revenue cannot recover the actual tax dues from the assessee. In such events, the Department of Revenue will be left with no remedy, which is contrary to the root principal of law 'Ubi Jus Ibi Remedium'. 19. The Hon'ble Apex Court while dealing with amalgamated Companies in the case of Pr. Commissioner of Income Tax Vs. Mahagun Realtors Pvt. Ltd., held that, 'whether corporate death of an entity upon amalgamation per se invalidates a tax assessment order ordinarily cannot be determined on a bare application of Section 481 of the Companies Act, 1956 (and its equivalent in the 2013 Act), but would depend on the terms of the amalgamation and the facts of each case. Further it restored the matter to the file of the ITAT and directed to decide the matter on merit. The relevant portion is as under:-*

*"42. Before concluding, this Court notes and holds that whether corporate death of an entity upon amalgamation per se invalidates an assessment order ordinarily cannot be determined on a bare application of Section 481 of the Companies Act, 1956 (and its equivalent in the 2013 Act), but would depend on the terms of the amalgamation and the facts of each case.*



43. In view of the foregoing discussion and having regard to the facts of this case, this court is of the considered view, that the impugned order of the High Court cannot be sustained; it is set aside. Since the appeal of the revenue against the order of the CIT was not heard on merits, the matter is restored to the file of ITAT, which shall proceed to hear the parties on the merits of the appeal as well as the cross objections, on issues, other than the nullity of the assessment order, on merits. The appeal is allowed, in the above terms, without order on costs.”

(emphasis supplied)

20. The Hon’ble High Court of Judicature for Rajasthan in the case of Commissioner of Income Tax Vs. Gopal Shri Scrips Pvt. Ltd. in ITA No. 53/2000 vide order dated 09/08/2016 dismissed the appeal filed by the Revenue for having become in-fructuous since the Company had been struck off from the register of ROC and the said Company dissolved. The operative portion of the Hon’ble High Court is as under:-

“On the last date of hearing when the matter came up before the Court on 05.07.2016, counsel for the appellant was directed to seek instructions about the present status of the Respondent assessee (Company) whether it is in existence or has become non operational or defunct by passage of time.

Sh. Anuroop Singhi, Adv., appearing for the appellant has placed for our perusal a communication issued from the office of Registrar of Companies dated 07.04.2011 indicating that pursuant to subsection( 5) of Section 560 of the Companies Act, 1956 the name of Gopal Shri Scrips Pvt. Ltd., has been struck off from the register and the said company is dissolved. In the light of the communication placed for our perusal dated 07.04.2011, no purpose is going to be served in examining the substantial question of law which has been raised for consideration in the instant appeal and on account of these change in circumstances, the present appeal has become infructuous and accordingly stands dismissed. However, the appellant is still at liberty to file application if any occasion arises in future.”

21. The said order of Hon’ble High Court of Judicature for Rajasthan dated 09/08/2016 in ITA No. 53/2000 has been challenged by the Revenue Department before the Hon’ble Supreme court of India in Civil Appeal No. 2922/2019 (CIT Jaipur Vs. M/s. Gopal Scrips Pvt. Ltd.). The Hon’ble Apex Court vide order dated 12/03/2019 held that, the High Court was wrong in dismissing the appeal as having rendered infructuous and further directed to decide the appeal afresh on merit in accordance with law in view of the relevant provisions of Companies Act and Income Tax Act. The relevant portions are hereunder:

“9. Having heard the learned counsel for the appellant (Income Tax Department) and on perusal of the record of the case, we are constrained to allow the appeal, set aside the impugned order



*and remand the case to the High Court for deciding the appeal afresh on merits in accordance with law.*

*10. Mere perusal of the impugned order quoted supra would go to show that the High Court dismissed the appeal on the ground that it has rendered infructuous because it was brought to its notice that the name of the company the respondent assessee has been struck off from the Register of the Company under Section 560(5) of the Companies Act, 1956.*

*11. In other words, the High Court was of the view that since the respondent Company stands dissolved as a result of the order passed by the Registrar of the Companies under Section 560 (5) of the Companies Act, the appeal filed against such Company which stands dissolved does not survive for its consideration on merits.*

*12. In our view, the High Court was wrong in dismissing the appeal as having rendered infructuous.*

*13. The High Court failed to notice Section 560(5) proviso (a) of the Companies Act and further failed to notice Chapter XV of the Income Tax Act which deals with "liability in special cases" and its clause (L) which deals with "discontinuance of business or dissolution".*

*14. The aforementioned two provisions, namely, one under the Companies Act and the other under the Income Tax Act specifically deal with the cases of the Companies, whose name has been struck off under Section 560 (5) of the Companies Act.*

*15. These provisions provide as to how and in what manner the liability against such Company arising under the Companies Act and under the Income Tax Act is required to be dealt with.*

*16. Since the High Court did not decide the appeal keeping in view the aforementioned two relevant provisions, the impugned order is not legally sustainable and has to be set aside.*

*17. In view of the foregoing discussion, the appeal succeeds and is accordingly allowed. The impugned order is set aside. The case is remanded to the High Court for deciding the appeal afresh on merits in accordance with law keeping in view the relevant provisions of Companies Act and the Income tax Act uninfluenced by any observations made by us on merits.*

*22. The Hon'ble Supreme Court in the case of M/s. Gopal Scrips Pvt. Ltd (supra) while allowing the Civil Appeal of the Revenue, dealt and relied on Section 560(5) of the Companies Act, 1956 and held that the Appeal filed by the Revenue is maintainable. The identical provisions have been introduced in the Companies Act, 2013 in Sub-Section sub-Sections (6) and (7) of Section 248 of the Companies Act. Therefore, the ratio laid*



*down in the case of Gopal Scrips Pvt. Ltd (supra) is squarely applicable to the issue in hand.*

*23. In the case of M/s. Gopal Scrips Pvt. Ltd (supra), the Department of Revenue was having grievance on the Order of the Hon'ble High Court of Judicature for Rajasthan in dismissing the Appeal (ITA) for having become in fructuous on the ground that the Assessee company was struck off. The Hon'ble Supreme Court has set aside the Order of the Hon'ble High Court of Judicature for Rajasthan and directed to decide the Appeal on merit. Ironically now the very same Department of revenue is seeking before us to dismiss the present Appeal as in-fructuous since the assessee company has been struck off. The Department cannot have such double standard."*

7.2 Further, as regards to the contention of the assessee that Hon'ble High Court of Bombay and Madras has admitted the writ petition filed by the Director on behalf of respective companies, so revised form no. 36 filed by the Director should be admitted, we don't agree for the reason that **firstly**, the Tribunal does not have power of writ jurisdiction and power to entertain appeal are exercised as provided under section 253 the Act. Under section 253(1) of the Act, it is the assessee only, who can prefer appeal before the Tribunal against the orders of Income-tax Authorities listed therein. **Secondly**, the assessee claimed that the director is assesses for the purpose of filing appeal by dissolved company because he is liable for paying demand in view of section 179 of the Act, but we find that director has not shown any documentary evidence before us indicating that department has initialed any recovery proceedings against the director under section 179 of the Act, so till then director can't claim to be an assessee for the purpose of proceedings against the company under the Act. Therefore, the revised form No. 36 filed by the Director is treated as



infructuous and rejected. The appeal filed in original form no. 36 was held to be maintainable and hence taken up for adjudication.

7.3 The main legal issue raised in ground No. 1 of the appeal is whether notice u/s.148 of the Act could be issued on the company which was struck off from the records of the registrar of the companies. Under the provisions of Section 248(1) of the companies Act, 2013, the registrar can strike off or remove the name of the company from the registrar of companies. Under section 248(2), the company may file an application for removing the name from the registrar of companies in case of certain situations. The registrar, after following the due process provided u/s.248(5) of the Act, is authorized to strike off name of company from the registrar of companies. The Section 248(7) however provided that the liability if any of any director or manager or any other officer who were exercising any power of management and any member of the company dissolved in subsection 5 may be enforced as if the company has not been dissolved. Further Section 250 of Companies Act, 2013 prescribe that when a company is dissolved under 248 , then it cease to operate and certificate of Incorporation shall be deemed to have been cancelled except **firstly**, for the purpose of realizing the amount due to the company and for payment or **secondly**, for discharge of the liabilities or obligation of the company. The section 252(1) gives an option to the company for restoration of the name in the registrar of companies. Similarly,



Section 252(3) provides for restoration of the name of the by any member or creditor or workmen thereof.

8. In the instant case before us, the issue in dispute is whether the notice issued u/s.148 of the Act in the case of the company which has been received by the director of the company is invalid. In our opinion, under the provision of Section 248(7) of the Act the liability of the director in respect of the company though it was dissolved was continued even though the company was dissolved under the provisions of Section 248(5) of the Act. Further, the section 250 of the Companies Act, 2013 has made it clear that the company shall not be deemed as dissolved or certificate of incorporation shall be continued for the purpose of discharge of the liabilities or obligation of the Company. Since responding to the notice issued by the Income-tax Department is a statutory liability or obligation of the Company, therefore it is not deemed to be dissolved or the certification of incorporation is not cancelled to that extent, therefore, in such case the notice issued also stands validly issued.

8.1 The Hon'ble Supreme Court in the case of Gopal Shri Scrips (P) Ltd has made this legal position clear which has been further explained by the Tribunal in the case of Dwaraka Portfolia Pvt. Ltd. vs. ACIT-CC 29 in ITA No.2563/Del/2017 for A.Y.2014-15. In the decisions of Hon'ble Bombay, relied upon by the assessee, the section 560 of the Companies Act, 1956 was in operation, but now



in view of clear provision of section 250 of the Companies Act, 2013, which has been explained by the Tribunal in the case of Dwaraka Portfolia Pvt. Ltd. (supra) after following the ratio in the case of Gopal Shri Scrips (P) Ltd (supra), therefore ,respectfully following the above decisions, we reject the contention of the ld. Counsel for the assessee challenging the validity of notice u/s.148 of the Act. The ground No.1 in the appeal of the assessee is accordingly dismissed.

9. As far as grounds on merits are concerned, we find that no explanation in respect of deposits in the bank statement is either furnished before the lower authorities or before us and therefore, we uphold the finding of the ld. CIT(A) on the issue in dispute. The ground No.2 of the appeal is also dismissed.

9.1 Before parting, we may like to express that either the director or the member of the company or the Income Tax department as a creditor can move before the National Company Law Tribunal for restoration of the name of the company also under provisions of section 252 of the companies Act, 2013, if so advised.

**10. In the result, appeal of the assessee is dismissed.**

**Order pronounced in the open Court on 24/01/2024.**

**Sd/-**  
**(PAVAN KUMAR GADALE)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(OM PRAKASH KANT)**  
**ACCOUNTANT MEMBER**



Mumbai;  
Dated: 24/01/2024  
Karuna, Sr. P.S.

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,  
(Assistant Registrar)  
**ITAT, Mumbai**