

**IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH KOLKATA
BEFORE SHRI SONJOY SARMA, JUDICIAL MEMBER
AND SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA No.1265/Kol/2023
Assessment Year: 2012-13**

Rising Tradecom Pvt. Ltd. 4 th floor, 23B N. S. Road, Dalhousie, Kolkata-700001. (PAN: AAECR4178B)	Vs.	Income Tax Officer, Ward- 4(1), Kolkata.
(Appellant)		(Respondent)

Present for:

Appellant by : Shri Akkal Dudhwewala, FCA
Respondent by : Shri B. K. Singh, JCIT, Sr. DR

Date of Hearing : 25.01.2024
Date of Pronouncement : 06.03.2024

ORDER

PER GIRISH AGRAWAL, ACCOUNTANT MEMBER:

This appeal filed by the assessee is against the order of Ld.CIT(A), National Faceless Appeal Centre (NFAC), Delhi, vide order No. ITBA/NFAC/S/250/2023-24/1057437316(1) dated 27.10.2023 passed against the assessment order by ITO, Ward-4(1), Kolkata u/s.144 of the Income-tax Act, 1961 (hereinafter referred to as the "Act"), dated 27.02.2015 for AY 2012-13.

2. Briefly stated, facts of the case are that assessee filed its return of income on 28.09.2012, reporting total income at Rs. 8,120/-. Case of the assessee was selected for scrutiny assessment with the reason of "*difference in the opening stock figure of the current year with the closing stock figure of the previous year.*" Ld. AO noted that as per return for AY 2011-12, closing stock of the assessee as on 31.03.2011 was Rs.65 lakh. However, as per the return for AY 2012-13, the opening stock reported by the assessee is at Nil. Thus, according to

Ld. AO, assessee has suppressed the sale of last year's closing stock. Necessary explanation and details were called for which remained uncomplied. Ld. AO thus, concluded that the said amount is suppressed turnover for the year and added it to the net profit for the year. Aggrieved, assessee went in appeal before the Ld. CIT(A), who confirmed the addition by holding that the difference in value of opening stock with closing stock remained unexplained. Aggrieved, assessee is in appeal before the Tribunal.

3. Ld. Counsel for the assessee submitted that there was no mistake for amounts appearing in closing stock of the last year as opening stock in the present year's financial statement. The entire opening stock consisting of equity share amounting to Rs. 65 lakh was converted into investments and, therefore, was reported under the head "current investments" in the Balance Sheet. Out of the said converted stock into investment, some shares were sold out during the year which were sold at cost, there was no profit element on such transfer. According to Ld. Counsel, Ld. AO failed to look into the matter and examine the said fact from the financial statement before him. Ld. Counsel further submitted that a remand report was called in the course of first appellate proceeding. In the remand proceeding, assessee submitted the list of closing stock as on 31.03.2011, details of which are mentioned in Schedule 3 under the head 'stock in trade', extracted below :

RISING TRADECOM PVT. LTD.		
Details of stock in trade transferred to investment on 01-04-2011		
Name of Script	Opening as on 01-04-11	
	Qty	Amount
Abha Agro Industries Pvt. Ltd.	20,000	18,00,000.00
Diviji Projects Pvt. Ltd.	15,000	15,00,000.00
Niket Food Products Pvt. Ltd.	20,000	18,00,000.00
Ruchika Vinimay Pvt. Ltd.	9,000	9,00,000.00
Suncity Vincom Pvt. Ltd.	2,500	5,00,000.00
		65,00,000.00

4. Ld. Counsel submitted that these shares amounting to Rs. 65 lakh which formed part of stock in trade in the Balance Sheet as on 31.03.2011 were converted into investments in the year under consideration and were thus reported under the head 'current investments'. For this, the Board of Directors of the assessee had passed resolution in the meeting of the Board of Directors held on 01.04.2011 to give effect to such conversion of shares held as stock in trade into investment w.e.f. 01.04.2011. Necessary accounting entry was passed as on 01.04.2011 for the conversion. Part of this converted investment were sold during the year, details of which are tabulated as under:

<u>RISING TRADECOM PVT. LTD</u>			
<u>Details of investment sold during 01-04-2011 to 31-03-2012</u>			
Name of Script	Sales		
	Date	Qty	Amount
Niket Food Products Pvt. Ltd	20-06-11	8000	720000.00
	14-10-11	11000	990000.00
Abha Agro Industries Pvt.Ltd.	19-03-12	8000	720000.00
Divji Projects Pvt. Ltd.	31-03-12	15000	1500000.00
Ruchika Vinimay Pvt. Ltd.	31-03-12	9000	900000.00
			<u>4830000.00</u>

5. Ld. Counsel referred to the sale bills which were raised for the sale of these investments. Certain new investments were also made during the year under consideration and the closing balance of Rs.1,04,20,000/- was disclosed and reported in the audited Balance Sheet as at 31.03.2012, details of the same are also tabulated below:

RISING TRADECOM PVT. LTD.**Details of Investment as on 31-03-2012**

Name of Script	Closing as on 31-03-12	
	Qty	Amount
Abha Agro Industries Pvt. Ltd.	12000	1080000.00
Niket Food Products Pvt. Ltd.	1000	90000.00
Suncity Vincom Pvt. Ltd.	2500	500000.00
Shyam Commosales Pvt. Ltd.	900	900000.00
Ladha Finance Ltd.	4600	4600000.00
Elkos Pens Ltd.	10000	2500000.00
Paras Pen Pvt. Ltd.	3750	750000.00
		10420000.00

6. Ld. Counsel pointed to the observations made by the Ld. AO in the remand report wherein it is stated that assessee had submitted list of closing stock, copy of ledger account, list of shares sold along with sales bill and details of investment as on 31.03.2012

6.1. On the reason noted for selection of the case for assessment, Ld. Counsel submitted that owing to conversion of stock in trade into investment, there was a reclassification of the said shares while reporting in the audited Balance Sheet for the year under consideration. Thus, against the current investment in the current reporting period, a sum of Rs.1,04,20,000/- is reported. Corresponding figure of Rs. 65 lakhs was reported in the column for previous year. Because of this reporting the opening stock for the stock in trade was lesser by Rs. 65 lakhs. Hence, the difference.

According to him, the reason for selection of the case for assessment has been adequately and evidently explained by the assessee, duly supported by all the corroborative documentary evidence and, therefore, the addition made by the Ld. AO is ought to be deleted.

7. Per contra, Ld. Sr. DR submitted that there was a difference in the opening and closing stock which formed the basis for making the addition. He thus, placed reliance on the orders of the authorities below.

8. We have heard the rival contentions and perused the material available on record. We have also gone through the documents and supporting statement referred by the Ld. Counsel. The facts already stated above and extracted in the forms of tables convinced us that the difference occurred owing to conversion of the stock in trade of shares into investment by the assessee which has been satisfactorily explained along with all the relevant documentary evidence. Assessee has submitted that shares have been sold at cost and, therefore, there was no profit element in the said transaction. Considering the facts on record and the submissions referred above, we delete the addition of Rs. 65 lakhs made by the Ld. AO. Grounds taken by the assessee in this respect are allowed.

9. In the result, appeal of the assessee is allowed.

Order is pronounced in the open court on 6th March, 2024

Sd/-
(Sonjoy Sarma)
Judicial Member

Sd/-
(Girish Agrawal)
Accountant Member

Dated: 6th March, 2024

JD, Sr. P.S.

Copy to:

1. The Appellant:
 2. The Respondent.
 3. CIT(A), NFAC, Delhi
 4. CIT
 5. DR, ITAT, Kolkata Bench, Kolkata
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By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata