

आयकर अपीलीय अधिकरण  
कोलकाता 'सी' पीठ, कोलकाता में  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
KOLKATA 'C' BENCH, KOLKATA**

डॉ. मनीष बोराड, लेखा सदस्य  
एवं  
श्री संजय शर्मा, न्यायिक सदस्य  
के समक्ष

**Before**

**DR. MANISH BORAD, ACCOUNTANT MEMBER  
&  
SONJOY SARMA, JUDICIAL MEMBER**

**I.T.A. No.: 1314/KOL/2023  
Assessment Year: 2017-18**

***M/s. Rakhi Vinimay Private Limited.....Appellant  
[PAN: AAECR 1681 D]***

***Vs.***

***ITO, Ward-1(3), Kolkata.....Respondent***

**Appearances:**

***Assessee represented by: A.K. Tulsiyan, FCA.***

***Department represented by: Archana Gupta, Addl. CIT, Sr. D/R.***

Date of concluding the hearing : April 15<sup>th</sup>, 2024

Date of pronouncing the order : May 8<sup>th</sup>, 2024

**ORDER**

**Per Manish Borad, Accountant Member:**

This appeal filed by the assessee pertaining to the Assessment Year (in short 'AY') 2017-18 is directed against the order passed u/s 250 of the Income Tax Act, 1961 (in short the 'Act') by Commissioner of Income Tax (Appeals)-NFAC, Delhi [in

short ld. 'CIT(A)'] dated 11.10.2023 which is arising out of the assessment order framed u/s 143(3) of the Act dated 26.11.2019.

2. Assessee has raised the following grounds of appeal:

*"1. That the Ld. AO as well as Ld. CIT(A) was wrong in making addition / confirming the addition of Rs. 1,00,00,000/- on account of advance given against sale of land to M/s. MSP Sponge Iron Ltd. alleging that the said advance is not disclosed in the financial statements of the receiving party i.e. M/s. MSP Sponge Iron Limited. The said amount is reflecting in the Financial Statement of the M/s. MSP Sponge Iron Limited under the head Other Liabilities- Advances from Customers and a corresponded note-40 is also given reflecting the said advance received including the amount of earlier years. Further, the Ld. AO as well as Ld. CIT(A) grossly erred in not examining any documents submitted by M/s. MSP Sponge Iron Limited on 16.09.2019 in compliance with the notice issued u/s 133(6). Hence, the addition made & confirmed by Ld. CIT(A) need to be deleted.*

*2. That the Ld. AO as well as Ld. CIT(A) was wrong in charging/confirming interest u/s 234B of the I. Tax Act.*

*3. That the assessee craves to leave or add, alter, amend or withdraw any or all of the ground(s) of appeal before or at the time of hearing."*

3. At the outset, ld. Counsel for the assessee submitted that ld. CIT(A) erred in confirming the addition without considering the fact that the alleged sum of Rs. 1 Crore given as advance against sale of land to M/s. MSP Sponge Iron Limited is duly disclosed in the audited balance sheet, bank entry supported with the bank statement and even the receiving party i.e. M/s. MSP Sponge Iron Limited has also mentioned the said sum in its balance sheet and therefore, impugned addition is uncalled for.

4. On the other hand, ld. D/R submitted that during the course of hearing before the lower authorities assessee failed to prove that

its name was appearing in the balance sheet of M/s. MSP Sponge Iron Limited and there is only a mention in the notes on account and further, the assessee was required to explain the source of the alleged investment.

5. We have heard rival contentions and perused the records placed before us and carefully gone through the paperbook containing 66 pages. The assessee is aggrieved with the addition of Rs. 1 Crore confirmed by Id. CIT(A) for the alleged unaccounted investment in M/s. MSP Sponge Iron Limited.

6. We observe that the assessee which is a private limited company engaged in business, declared income of Rs. 1,50,090/- in the e-return filed for AY 2017-18 on 21.10.2017. Subsequent to the selection of case for scrutiny through CASS and validly serving notices, the Assessing Officer (in short Id. 'AO') examined the records and observed that the assessee company had extended an advance of Rs. 1 Crore to M/s. MSP Sponge Iron Limited. For cross-verification, notice u/s 133(6) of the Act was issued to M/s. MSP Sponge Iron Limited and in the audited financial statement received in compliance thereto, Id. AO noticed that the said transactions of Rs. 1 Crore was not reflected. He, accordingly infer that the said transaction is a sham transaction and added in the hands of the assessee as unexplained advance. We further, observe that when the matter travelled before Id. CIT(A), he though confirmed the addition but coupled therewith observed that assessee had to prove the source of the said investment.

7. We, on perusal of the balance sheet of the company, observe that the advance against land at Rs. 1 Crore given to M/s. MSP Sponge Iron Limited is duly appearing in Schedule-9 of 'Short-term Loans and Advances'. Copies of bank statement placed at page 21 to 24 also indicates that Rs. 50 Lakh were given on two occasions on 05.09.2016 & 07.09.2016. Therefore, so far as the assessee is concerned the alleged sum of Rs. 1 Crore is duly accounted for in the books of accounts and payment has been made through banking channel.

8. Now, coming to the financial statement of M/s. MSP Sponge Iron Limited, we find that in Schedule-10 under the head 'Other Liabilities' it has shown advance from customers of Rs. 1554.50 Lakh as on 31.03.2017. There is a star mark with the line 'Advance from Customers' which refers to notes on account at page 64 of the paperbook showing the notes on account of M/s. MSP Sponge Iron Limited at Sl.No. 40 reads as "*Advance from customers includes an advance received for sale of land amounting to Rs. 1,00,10,000/-.*" Further, at page 27 of the paperbook provides a reply of M/s. MSP Sponge Iron Limited dated 15.09.2019 which also confirms the fact that it had received advance against sale of land at Rs. 1,00,10,000/- of which Rs. 10,000/- was received in the preceding financial year and Rs. 1 Crore during the year under consideration.

9. Considering all these facts, we find that the alleged sum of Rs. 1 Crore is not a sham transaction and is a regular business transaction between the assessee and M/s. MSP Sponge Iron Limited and the same has been duly accounted for in the books of accounts of both the concerns. So far as the observation of ld.

CIT(A) that the assessee ought to have proved the source of the said investment, we fail to find any merit because no such issue was raised by the AO and the addition has been made only on account of unaccounted advances which the assessee has duly explained and even the bank statement which is forming part of the paperbook, clearly shows that the assessee has sufficient bank balance to make the alleged investment. Thus, the finding of Id. CIT(A) is set aside and the addition of Rs. 1 Crore is deleted and the sole ground no. 1 of the assessee is allowed.

10. Other grounds of appeal raised by the assessee are general and consequential in nature which need no adjudication.

11. In the result, the appeal filed by the assessee is allowed.

***Order pronounced in the open Court on 8<sup>th</sup> May, 2024.***

*Sd/-*

**[Sonjoy Sarma]**  
Judicial Member

*Sd/-*

**[Manish Borad]**  
Accountant Member

Dated: 08.05.2024

*Bidhan (P.S.)*

*Copy of the order forwarded to:*

- 1. M/s. Rakhi Vinimay Private Limited, 16/S, Block-A, New Alipore, Kolkata-700 053.**
- 2. ITO, Ward-1(3), Kolkata.**
3. CIT(A)-NFAC, Delhi.
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata.

*//True copy //*

By order

Assistant Registrar  
ITAT, Kolkata Benches  
Kolkata