

**IN THE INCOME TAX APPELLATE TRIBUNAL
“C” BENCH, AHMEDABAD**

**BEFORE SHRI T.R. SENTHIL KUMAR, JUDICIAL MEMBER
AND SHRI NARENDRA PRASAD SINHA, ACCOUNTANT MEMBER**

**ITA No. 1133/Ahd/2023
Assessment Year : 2006-07**

Ankush Holdings Ltd., B/12, Sulabh Flats, Opp. Mirambica School Road, Naranpura, Ahmedabad-380009 PAN : AADCA 7765 Q	Vs	The Income Tax Officer, Ward-1(1)1), Ahmedabad
अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)
Assessee by :		Shri Aseem Thakkar, AR
Revenue by :		Shri Harishi Kesh Patki, Sr DR

सुनवाई की तारीख / **Date of Hearing** : **06/05/2024**
घोषणा की तारीख / **Date of Pronouncement** : **22/05/2024**

आदेश/O R D E R

PER T.R. SENTHIL KUMAR, JUDICIAL MEMBER :

This appeal is filed by the assessee as against the appellate order dated 06.11.2023 passed by the Commissioner of Income-Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi (hereinafter referred to as the “CIT(A)” in short), arising out of the reassessment order passed under section 143(3) r.w.s. 147 of the Income-tax Act, 1961 (hereinafter referred to as the “the Act” in short), relating to the Assessment Year (AY) 2006-07.

2. The brief facts of the case are that the assessee is a company engaged in investment in shares. For the assessment year under consideration, the assessee filed its return of income on 30.05.2006 declaring total income at Rs.11,732/-. Thereafter, the return was reopened by issuing notice u/s 148 of the Act on 28.03.2013 by recording reasons that the assessee-group, i.e. Pradip Overseas

Group, was allegedly found to have introduced its unaccounted income in the form of share capital/premium through various fictitious shell companies, as also that the assessee-company was found to have made investment for a sum of Rs.50,00,000/- in the share of those companies, i.e. Pradip Overseas Ltd. and Pradip Enterprise Ltd., as under:-

<i>Sr. No.</i>	<i>Name of company whose shares subscribed</i>	<i>No. of shares</i>	<i>Rate per share incl. premium</i>	<i>Total amount paid</i>	<i>Date of allotment</i>
01	<i>Pradip Overseas Ltd (formerly known as Chetan Textiles Ltd.)</i>	62500	40	2500000	31.03.06
02	<i>Pradip Enterprise Ltd. (formerly known as Pradip Overseas Ltd.)</i>	100000	25	2500000	31.03.06
			<i>Total</i>	5000000	

2.1. The assessee was, therefore, asked to show cause as to why the aforesaid investment of Rs.50,00,000/-, made by the assessee-company in the shares of Pradip Overseas Ltd. and Pradip Enterprises Ltd., should not be treated as unexplained income of the assessee and added to the total income of the assessee. In response, the assessee requested to treat the original return as the return filed u/s 148 of the Act, and also furnished copy of the bank statement reflecting the aforesaid transactions shown in its books of accounts and claimed the source of the above said amount of investment was out of the funds of the business of the company. However, the above explanation was not accepted by the Assessing Officer. The addition was, therefore, made protectively in the hands of the assessee-company, since M/s. Pradip Overseas Ltd. and M/s. Pradip Enterprises Ltd., in which unaccounted income had been introduced as share capital, had filed application before the Income-Tax Settlement Commission.

3. Aggrieved against the reassessment, the assessee filed an appeal before the ld. CIT(A). During the course of appellate proceedings before ld. CIT(A), the assessee opted for Vivad-se-Vishwas Scheme; however, not paid the taxes. After considering the submission of the assessee, ld. CIT(A) held that the assessee was unable to substantiate the source of investment in share capital with satisfactory supporting evidence, either before the Assessing Officer or before him. Ld. CIT(A) also held that the assessee was unable to update him on the outcome of the application filed by these two companies before the Income-Tax Settlement Commission. Therefore, the ld. CIT(A) confirmed the protective addition of Rs.50,00,000/- made in the hands of the assessee and dismissed the appeal of the assessee.

4. Further aggrieved against the appellate order passed by the ld. CIT(A), the assessee is now in appeal before us raising following grounds:-

“1. The Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi has erred in confirming action of the Assessing Officer in issuing Notice u/s.148 of the IT Act, 1961 for reopening the Assessment which is illegal and bad in law.

2. The Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi has erred in confirming the action of the Assessing Officer in framing the assessment in violation of principles of natural justice and equity and therefore the same deserves to be quashed.

3. The Learned Commissioner of Income Tax (Appeals). National Faceless Appeal Centre (NFAC), Delhi has erred in confirming action of the Assessing Officer in not providing the copy of the statement of Shri Pradip Karia on which reliance has been placed and neither granted an opportunity of undertaking Cross examination.

4. The Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi has erred in confirming the addition of Rs.50,00,000/- made by the Assessing officer for the alleged unaccounted investment in the shares of Pradip Enterprises Ltd. formerly known as Pradip Overseas Ltd. u/s.68 of the IT Act, 1961 on protective basis.

5. The Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi has erred in confirming the addition of Rs.50,00,000/- made on protective basis being investment in shares of Pradip Enterprises Ltd. without confirming the fate of addition made on substantive basis.”

5. The ld. Counsel, Shri Aseem Thakkar, appearing for the assessee, at the outset, submitted before us that he could be able to get the order dated 07.11.2014 passed by the Hon'ble Income-Tax Settlement Commission in the case of Pradip Enterprises Ltd. and Pradip Overseas Ltd., wherein the respective companies have offered the share application money as their undisclosed income before the Settlement Commission, and also drawn our attention to page No.222 of the paper-book relating to the details of share capital money received in FY 2005-06 in the case of Pradip Enterprises Ltd., wherein a sum of Rs.25,00,000/- paid by the assessee-company is reflecting. It is, thus, pleaded that the protective addition made in the hands of the assessee is liable to be deleted.

6. Per contra, ld. Sr. DR, appearing for the Revenue, submitted that this order passed by the Income-Tax Settlement Commission is filed for the first time before the Tribunal. Therefore, the matter may be sent back to the Assessing Officer for verification and pass order in accordance with law.

7. We have given our thoughtful consideration to the above factual position and perused all the material available on record. As stated by the ld. Sr. DR, the order of the Income-Tax Settlement Commission is

filed before us for the first time. No doubt that M/s. Pradip Enterprises Ltd has offered Rs.35,00,000/- for AY 2006-07 and Pradip Overseas Ltd. has offered Rs.10,00,000/- for AY 2006-07. However, this requires verification by the Assessing Officer after perusing the Settlement Commission's order. Thus, in the interest of justice, we set aside the matter back to the file of the Jurisdictional Assessing Officer for verification of the investments made by the assessee in the above two companies.

8. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 22nd May, 2024 at Ahmedabad.

Sd/-

Sd/-

(NARENDRA PRASAD SINHA)
ACCOUNTNAT MEMBER

(T.R. SENTHIL KUMAR)
JUDICIAL MEMBER

Ahmedabad, Dated 22/05/2024

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आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (अपील) / The CIT(A)-
5. विभागीय प्रतिनिधिअधिकरण अपीलीय आयकर , /DR,ITAT, Ahmedabad,
6. गार्ड फाईल /Guard file.

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आदेशानुसार/ BY ORDER,

सहायक पंजीकार (Asstt. Registrar)
आयकर अपीलीय अधिकरण
ITAT, Ahmedabad