

| आयकर अपीलीय अधिकरण न्यायपीठ, कोलकाता |  
IN THE INCOME TAX APPELLATE TRIBUNAL  
"SMC" BENCH, KOLKATA

BEFORE DR. MANISH BORAD, HON'BLE ACCOUNTANT MEMBER  
&  
SHRI PRADIP KUMAR CHOUBEY, HON'BLE JUDICIAL MEMBER

**I.T.A. No. 787 & 788/Kol/2023**  
**Assessment Year: 2010-11 & 2012-13**

<b>Shri Ashok Sharma</b> 162A, G.T. Road, Bally Howrah - 711201 <b>[PAN : AURPS7511D]</b>	Vs	<b>Assessing Officer, Ward-37(1), Kolkata</b>
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<b>अपीलार्थी/ (Appellant)</b>		<b>प्रत्यर्थी/ (Respondent)</b>
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Assessee by :	Shri Sushil Kumar Pransukha, A/R
Revenue by :	Shri Prabhas Roy, JCIT, Sr. D/R

सुनवाई की तारीख/Date of Hearing : 01/05/2024  
घोषणा की तारीख /Date of Pronouncement: 03/06/2024

**आदेश/ORDER**

**PER DR. MANISH BORAD, ACCOUNTANT MEMBER :**

The present appeals are directed at the instance of the assessee against the separate orders of the National Faceless Appeal Centre (hereinafter the "Id. CIT(A)") even dt. 05/06/2023, passed u/s 250 of the Income Tax Act, 1961 ("the Act") for Assessment Years 2010-11 and 2012-13.

2. First we take up the assessee's appeal for Assessment Year 2010-11. The sole grievance of the assessee is in respect of addition of Rs.32,54,000/- made by the Id. Assessing Officer and confirmed by the Id. CIT(A) on account of cash deposited in bank account no. 504011032461, held in the name of M/s. Kuldevi Investment in ING Vysya Bank. The Id. Assessing Officer has made the impugned addition treating the assessee as the sole proprietor of M/s. Kuldevi Investment.

2.1. The Id. Counsel for the assessee, at the outset submitted that, the assessee is not the sole proprietor of M/s. Kuldevi Investments and that the addition has been wrongfully made in the hands of the assessee. In support of this contention he has filed an affidavit dt. 29/04/2024.

The Id. D/R, though not leaving his grounds, could not controvert this contention of the assessee supported by the affidavit.

3. We have heard rival contentions and perused the material placed before us. The content of the affidavit filed by the assessee dt. 29/04/2023, reads as follows:-

*"I, Ashok Sharma son of Late Balmukund Sharma aged about residing at 162A, GT Road, Howrah 711201 solemnly affirm that:-*

*1. In above mentioned case, Assessing Officer has mentioned that I am proprietor of Kuldevi investment having bank account with Vysya Bank (now Kotak Mahindra Bank).*

*2. In the submission before AO as well as CIT(A) I have denied that I am proprietor of Kuldevi Investment*

*3. Through this affidavit I affirm that I am not proprietor of Kuldevi investment."*

4. Now, once the assessee has been denying of being the sole proprietor of M/s. Kuldevi Investments and the Id. Assessing Officer has based the addition only on this ground, in view of the affidavit before us, we deem it fit to restore the matter to the file of the Id. Assessing Officer for examining this fact by way of ascertaining it from the banking authorities as to whether the assessee is the sole proprietor of M/s. Kuldevi Investments or not and then decide in accordance with law. Accordingly, the effective grounds raised by the assessee are allowed for statistical purposes.

5. Now, so far as Assessment Year 2012-13 is concerned, the impugned additions has been made on account of some entries through

cheque as well as opening balances in the bank account held by the assessee in Union Bank of India.

5.1. At the outset, the Id. Counsel for the assessee submitted that the Id. Assessing Officer has not made any enquiry about the alleged credit entries which are part of the bank account duly disclosed in the ITR. He prayed for the issue to be restored to the file of the Id. CIT(A) for examination of the alleged credit entries. The Id. D/R did not oppose to this prayer of the Id. Counsel for the assessee.

6. We have heard rival contentions and perused the material placed before us. We observe that the assessee is an individual holding a bank account with Union Bank of India. The impugned addition of Rs.8,55,058/- comprises of the following:-

- (i) Opening balance as on 01/04/2011 in Union Bank of India – Rs.1,30,058/-
- (ii) Cash deposit on 22/03/2012 – Rs.25,000/-
- (iii) Transfer from Reliable Grains and Pulse on 30/03/2012 – Rs. 3,00,000/-
- (iv) -----Do----- - Rs. 4,00,000/-

6.1. The observation of the Id. Assessing Officer for making the impugned addition is at para 7 and the same reads as under:-

*7.1) On perusal of assessee's bank statement for the F.Y. 2011-12 (Union Bank of India, A/c No. 301602010908668), it is found that assessee's total credit (excluding credit of Rs. 9,98,415/- from Beekay Vanijya Pvt Ltd, which has been verified by issuing notice u/s 133(6) and interest of Rs. 7,401/-) during the F.Y. 2011-12 was Rs. 8,55,058/-, which is not reflected in assessee's original return of income for the A.Y. 2012-13. Therefore, the assessee was requested to explain along with proper supporting documentary evidences why the excess credit of Rs. 8,55,058/- should not be treated as his unexplained money u/s 69A of the income-tax 'Act, 1961, In response, the assessee failed to furnish any explanation along with supporting documentary evidences. Thus, it can be construed that the assessee has nothing to submit in this respect. Since the assessee failed to put forward any reasonable explanation along with supporting documentary evidences of the source of excess credit in his bank a/c, nature and source of excess credit of Rs. 8,55,058/- in his bank a/c remains unexplained. Since the assessee does not submit any books of a/cs, excess*

*credit of Rs. 8,55,058/- made in added back with the total income of the assessee as unexplained money u/s 69A of the Income-tax Act, 1961.bank a/c is treated as deemed income of the assessee for the F.Y. 2011-12 relevant to A.Y. 2012-13 and is added back with the total income of the assessee as unexplained money u/s 69A of the Income-tax Act, 1961."*

7. On perusal of the above observation of the Id. Assessing Officer, we notice that the assessee failed to furnish proper supporting evidence. Considering the facts that the bank account is duly disclosed in the income tax return and the Id. Assessing Officer has not disputed the other transactions appearing in the said bank statements, therefore, we deem it fit to restore this issue to the file of the Id. CIT(A) for fresh examination of the bank statements and then coming to a logical conclusion. Accordingly, the effective grounds raised by the assessee are allowed for statistical purposes.

8. In the result, both the appeals of the assessee are allowed for statistical purposes as per the terms indicated above.

**Order pronounced in the Court on 3<sup>rd</sup> June, 2024 at Kolkata.**

*Sd/-*  
**(PRADIP KUMAR CHOUBEY)**  
**JUDICIAL MEMBER**

*Sd/-*  
**(DR. MANISH BORAD)**  
**ACCOUNTANT MEMBER**

Kolkata, Dated 03/06/2024

*\*SC S.P.*

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

1. अपीलार्थी / The Assessee
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि , आयकर अपीलीय अधिकरण, कोलकाता/DR,ITAT, Kolkata,
6. गार्ड फाई/ Guard file.

आदेशानुसार/ BY ORDER,  
TRUE COPY

Assistant Registrar  
आयकर अपीलीय अधिकरण  
ITAT, Kolkata