

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH, CHENNAI**

श्री महावीर सिंह, उपाध्यक्ष एवं श्री जगदीश, लेखा सदस्य के समक्ष
**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI JAGADISH, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: **1175/CHNY/2023**

निर्धारण वर्ष/Assessment Year: 2013-14

**Shri Srinivasan
Venkatasubramanian,**
10, Shrusthtis Sthal,
2nd Cross Street, R.A. Puram,
Chennai – 600 028.

**The Deputy Commissioner
of Income Tax,**
Vs. Corporate Circle 4(1),
Chennai.

PAN: AADPV 2643M

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri S. Sridhar, Advocate (Erode)
प्रत्यर्थी की ओर से/Respondent by : Shri P. Sajit Kumar, JCIT

सुनवाई की तारीख/Date of Hearing : 06.06.2024

घोषणा की तारीख/Date of Pronouncement : 12.06.2024

आदेश /ORDER

PER MAHAVIR SINGH, VICE PRESIDENT:

This appeal by the assessee is arising out of the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi in Order No.ITBA/NFAC/S/250/2023-24/1055330249 (1) dated 22.08.2023. The assessment was framed by the Assistant Commissioner of Income Tax, Corporate Circle-1(2), Chennai for the assessment year 2013-14 u/s.143(3) r.w.s. 254 of

the Income Tax Act, 1961 (hereinafter the 'Act') vide order dated 20.11.2019.

2. The only issue in this appeal of assessee is as regards to the order of CIT(A)-NFAC confirming the action of AO in making addition of Rs.78 lakhs being unexplained cash credit u/s.68 of the Act. For this, assessee has raised various grounds which are argumentative and exhaustive and hence, need not be reproduced.

3. Brief facts of the case are that the assessee is an individual and is also Director in Kgeyes Residency Pvt. Ltd. The assessee filed his return of income for the relevant assessment year 2013-14 on 30.07.2013. The original assessment was completed by the Income Tax Officer, Corporate Ward 4(1), Chennai for the relevant assessment year vide order u/s.143(3) of the Act on 16.03.2016 and addition u/s.68 of the Act was made of Rs.78 lakhs being cash deposit made in assessee account at Canara Bank A/c. No.094210126005. The assessee challenged this assessment order before CIT(A) and CIT(A) in original proceedings vide order dated 26.09.2017 in ITA No.16/16-17 deleted the addition made by AO to the extent of Rs.72.50 lakhs being cash deposit as explained and sustained addition of Rs.5.50 lakhs made by the AO u/s.68 of the

Act. Aggrieved against deletion of addition by the CIT(A) of Rs.72.50 lakhs, the Revenue filed appeal before Tribunal and the Tribunal in ITA No.2900/CHNY/2017 order dated 03.10.2018 restored the matter back to the file of the AO to examine the source of cash deposit made in assessee's bank account maintained with Canara Bank. In consequence to the directions of the Tribunal, the AO took up the assessment afresh and passed order u/s.143(3) r.w.s. 254 of the Act vide dated 20.11.2019.

4. The AO while framing assessment in consequence to the directions of the Tribunal noted the affidavit submitted by Kgeyes Residency Pvt. Ltd., dated 24.08.2017 and observed that the assessee was not shown as debtor in the balance sheet of Kgeyes Residency Pvt. Ltd., and further Kgeyes Residency Pvt. Ltd., in its reply dated 08.11.2019 has categorically mentioned that it had not entered into any contract/work agreement with KGA Milestone Constructions. Accordingly, a show cause notice was issued to the assessee to explain the source of the amount of Rs.78 lakhs and the AO noted that as per affidavit the company has withdrawal from 02.02.2012 to 31.03.2012 of Rs.72.50 lakhs, the details given are as under:-

<i>S.No.</i>	<i>Date of withdrawal</i>	<i>Amount (in Rs.)</i>
1	02.01.2012	8,00,000/-
2	04.01.2012	1,00,000/-
3	18.01.2012	1,00,000/-
4	02.02.2012	8,00,000/-
5	08.02.2012	1,00,000/-
6	11.02.2012	10,00,000/-
7	29.02.2012	1,50,000/-
8	03.03.2012	11,00,000/-
9	10.03.2012	11,00,000/-
10	21.03.2012	2,00,000/-
11	28.03.2012	2,00,000/-
12	28.03.2012	5,00,000/-
13	31.03.2012	11,00,000/-
	<i>Total</i>	72,50,000/-

The assessee claimed to have deposited this amount from 02.02.2012 to 25.10.2012 in his canara bank account as under:-

<i>Posting date</i>	<i>Branch</i>	<i>Description</i>	<i>Withdrawals</i>	<i>Deposits</i>
23/4/2012	942	Cash Deposits	0	700000
23/4/2012	942	Funds transfer to KGS Milestone	700000	0
27/4/2012	942	Cash Deposits	0	500000
27/4/2012	942	KGS Milestone	500000	0
28/4/2012	942	Cash Deposits	0	900000
28/4/2012	942	KGS Milestone	900000	0
09/5/2012	942	Cash Deposits	0	700000
09/5/2012	942	Funds transfer to KGS Milestone	700000	0
14/5/2012	942	Cash Deposits	0	900000
14/5/2012	942	Funds transfer to KGS Milestone	900000	0
9/7/2012	942	Cash Deposits	0	800000
10/7/2012	942	Cash Deposits	0	800000
11/7/2012	1760	To Clearing	800000	0
11/7/2012	942	Cash Deposits	0	800000
12/7/2012	1760	To Clearing	800000	0

12/7/2012	1760	To Clearing	800000	0
18/7/2012	942	PAN AADPV2643M	0	800000
20/7/2012	1760	To Clearing	800000	0
20/10/2012	942	Cash Deposits	0	900000
25/10/2012	1760	To Clearing	900000	0
		Total	7800000	7800000

4.1 The AO consequently observed that the assessee is unable to correlate the withdrawals made in the company with that of the deposits in his Canara Bank account and moreover the Kgeyes Residency Pvt. Ltd., has not shown the assessee as debtor in the balance sheet. Hence, he noted that the assessee has not offered any explanation about the nature and source of this cash deposit and further, whatever explanation offered by assessee is not satisfactory in the opinion of the AO. Hence, he confirmed the addition of Rs.78 lakhs. Aggrieved, assessee preferred appeal before CIT(A).

5. The CIT(A) also confirmed the action of the AO by observing as under:-

“I have considered the facts of the case and submission filed by appellant. I find that though the Kgeyes Residency Pvt Ltd had confirmed to have given the cash of Rs.78,00,000/- through affidavit, the same cannot be sole evidence if the same is not supported by corroborative evidence. In this case, as already held by the Ld.CIT(A) in first round, that the cash withdrawal from banks were to the extent of Rs.72,50,000/- only. Secondly the Kgeyes Residency Pvt Ltd has claimed that the money was given to the appellant for procurement of material but this transactions appears to have not been reflected in the books of accounts of Kgeyes Residency Pvt Ltd since the appellant is not shown debtor. The appellant has not produced

any evidence either before the AO or before this office to show that the above transaction is reflected in the books of accounts of Kgeyes Residency Pvt Ltd. Therefore since the confirmation in the form of affidavit is not supported other corroborate evidences, the same cannot be accepted as evidence to explain the source of cash deposited by the appellant. I find that the AO has rejected the affidavit on the ground that the appellant is the majority share holder and Director of the company viz. Kgeyes Residency Pvt Ltd.

Aggrieved, assessee is in appeal before the Tribunal.

6. Before us, the Id.counsel for the assessee Shri S.Sridhar, Advocate (Erode) argued and on the other hand, the Id. Senior DR, Shri P. Sajit Kumar argued.

7. We have perused the case records, heard arguments of both the sides and also gone through the documents filed by the assessee. We noted that the assessee could not prove that the assessee was given this amount withdrawn by Kgeyes Residency Pvt. Ltd., for the reason that Kgeyes Residency Pvt. Ltd., in its books of accounts has not reflected assessee as debtor. Further, there is no explanation given by Kgeyes Residency Pvt. Ltd., that the amount withdrawn was given, what treatment in its books of accounts. As the assessee could not produce the accounts of the Kgeyes Residency Pvt. Ltd., to prove the claim of assessee, in the absence of explanation, we are of the view that the assessee is unable to

prove this amount i.e., the source of cash deposit in Canara Bank account. Hence, we confirm the addition and accordingly dismiss the appeal of assessee.

8. In the result, the appeal filed by the assessee is dismissed.

Order pronounced in the open court on 12th June, 2024 at Chennai.

Sd/-

(जगदीश)

(JAGADISH)

लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-

(महावीर सिंह)

(MAHAVIR SINGH)

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 12th June, 2024

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त /CIT, Chennai
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF.