

**IN THE INCOME TAX APPELLATE TRIBUNAL  
(DELHI BENCH: 'H': NEW DELHI)**

**BEFORE SHRI GS PANNU, VICE PRESIDENT  
AND  
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

**ITA No:- 1618/Del/2017  
Assessment Year: 2011-12**

Techman Buildwell (P) Ltd., G- 1354, Lower Ground Floor, CR Park, New Delhi-110019.	Vs.	Asstt. Commissioner of Income Tax, Circle 25(1), New Delhi.
<b>PAN No: AACT8382M</b>		
<b>APPELLANT</b>		<b>RESPONDENT</b>

**ITA No:- 737/Del/2020  
Assessment Year: 2012-13**

Techman Buildwell (P) Ltd., G- 1354, Lower Ground Floor, CR Park, New Delhi-110019.	Vs.	Deputy Commissioner of Income Tax, Circle 25(2), New Delhi.
<b>PAN No: AACT8382M</b>		
<b>APPELLANT</b>		<b>RESPONDENT</b>

**Assessee by** : Shri Arta Trana Panda, Adv.  
**Revenue by** : Shri Amit Katoch, Sr. DR

**Date of Hearing** : 05.04.2024  
**Date of Pronouncement** : 13.06.2024

**ORDER**

**PER ANUBHAV SHARMA, JM**

The appeal **ITA No.- 1618/Del/2017** has been preferred by the Assessee against the order dated 02.01.2017 of CIT(A)-09, New Delhi in Appeal No. 11/14-15 arising out of an appeal before it against the order dated 30.03.2014 passed u/s 143(3) of the Income Tax Act, 1961 (hereinafter referred as 'the Act') by the DCIT, Circle-16(1), New Delhi (hereinafter referred as the Ld. AO) for Assessment Year 2011-12.

1.1 The appeal **ITA No.- 737/Del/2020** has been preferred by the Assessee against the order dated 06.12.2019 of CIT(A), Delhi-09, in Appeal No. Delhi-13/10606/2015-16 arising out of an appeal before it against the order dated 39.03.2015 passed u/s 143(3) of the Income Tax Act, 1961 (hereinafter referred as 'the Act') by the DCIT, Circle-25(1), New Delhi (hereinafter referred as the Ld. AO) for Assessment Year 2012-13.

2. The Assessee has raised the following grounds of appeal:

(ITA No.- 1618/Del/2017)

*“1. Whether the learned assessing officer as well as learned CTT(A) was justified in making and sustaining an addition of Rs 24,50,000.00 u/s 68 of the Income Tax Act, 1961 being share application money received from Accord Trade-Fin (P) Ltd.*

*2. Whether the learned CIT (A) was justified in not admitting the additional evidence filled despite the fact that the assessee company has filed bank statement etc before the assessing officer in respect of the amount received from Sonia Chikara and Chandra Vijaya Chikara and all the papers in respect of Neeraj Mishra.*

*3. Whether M/S Accord Trade-Fin (P) Ltd is a SK Jain Group company as held by Id CIT(A) despite the fact that Accord Trade-Fin (P) Ltd is a group investment company of assessee since 2000.*

(ITA No.- 737/Del/2020)

*1. Whether the Id assessing officer was justified in making the addition and CIT(A) in sustaining the same of Rs 3300000.00 being amount received from M/S and CIT(A) Accord Tradefin (P) Ltd Rs 2200000.00 and Rs 1100000.00 from Astha Agrawal u/s 68 of the Income Tax Act, 1961 on the basis of surmises and conjectures and without any enquiry of any kind having been made from these cash creditors.*

*2. Whether the Id CIT(A) was justified in sustaining the addition of Rs 100000.00 on account of cash deposited in the Vijaya Bank in spite of the facts that the cash was available in the books of accounts of the assessee company.*

*3. Whether the assessing officer was justified in making an addition of Rs. 101794.00 and as well as CIT(A) was justified in sustaining the same on account of deemed interest on advances made for the purpose of business advances.*

*4. Whether the assessing officer was justified and Id CIT(A) in sustaining the addition of Rs 17650.00 u/s 43B of the Act.”*

3. Heard and perused the records.
4. In regard to ITA No. 618/Del/2017 for Assessment Year 2011-12, it comes up that the assessee company, during the year, was engaged in the business of real estate development and the Assessing Officer has made an addition of Rs. 69,40,000/- on account of failure of the assessee in establishing the genuineness, creditworthiness and identity of certain parties from whom share application money was received during the year. The CIT(A), on the basis of certain additional evidence, admitted in appeal, being satisfied with regard to the genuineness of the transaction had restricting to the Rs. 24,50,000/-, which allegedly was received from Accord Tradefin Private Limited. As For this, the assessee is in appeal before the Tribunal and has filed an application under Rule 29 of the ITAT Rules, 1963, for admitting additional evidences.
5. It is submitted that before the CIT(A), the Appellant had filed an application under Rule 46A for admission of additional evidence seeking permission to place on record the following material as additional evidence:
  - (i) Confirmation and affidavit of Ms. Sonia Chikara;
  - (ii) Confirmation and atidavit of Sh. Chandra Vijay Chikara.

5.1 Ld. AR submits that the aforesaid material was filed to prove source of funds of Accord Tradefin Pvt. Ltd. It was submitted that the investment made by Accord Tradefin Pvt. Ltd. was out of capital receipt from Ms. Sonia Chikara and Sh. Chandra Vijay Chikara. It was explained that the said evidence could not be filed during assessment proceedings because Ms. Sonia Chikara is a non-resident and Sh. Chandra Vijay Chikara being a navy officer was on ship and as such, were not available during the assessment proceedings. Accordingly, the Appellant was handicapped to file the documentary evidence to prove the source of the source of capital received from Accord Tradefin Pvt. Ltd.

However, the CIT(A) declined to admit the additional evidence for the reason that the Appellant has not shown any sufficient cause, which prevented it from not filling the evidences during assessment proceedings. In this background, the Appellant seeks to place on record following as additional evidence:

- (i) Confirmation and affidavit of Ms. Sonia Chikara;
- (ii) Confirmation affidavit of Sh. Chandra Vijay Chikara.
- (iii) Balance sheet and P&L A/c of Accord Tradefin Pvt. Ltd. as at 31.3.2011 & 31.3.2012.

5.2 It is submitted that admission of additional evidence is vital to decide the issue and its admission would not cause any prejudice to the Revenue, rather, it would advance the cause of justice. Reliance is placed on following decisions; Smt. Prabhavati S Shah v. CIT (1998) 231 ITR 1 (Bom), CIT v. K Ravindranthan Nair (2004) 265 ITR 217 (Ker), Dwarika Prasad v. ITO (1997) 63 ITD 1 (Pat-TM). Abhay Kumar Shroff (1997) 63 ITD 144 (Pat-TM) and Electra (Jaipur) Ltd v. IAC 26 ITD 236 (Del).

6. It comes up that the appellant is a flagship company of the Techman group of companies and has developed various residential and commercial projects in Agra, Faridabad, Ghaziabad, Mathura, Modinagar and New Delhi. Appellant claims that the business of real estate requires substantial funds. The same was raised by way of share capital from family members of Directors and from its group companies. The sum of Rs.24,50,000/- was received from Accord Tradefin Pvt. Ltd., a group company, which hold substantial investment in the Appellant. Both the Appellant and Accord Tradefin Pvt. Ltd. have common directors and its shareholding in the Appellant is 22.38%. Besides investment in the Appellant,

Accord Tradefin Pvt. Ltd has also made investment in other group companies namely, Techman Energy Ltd., RMG Buildwell (P) Ltd, Techman Shelters (P) Ltd. and has also provided advance to the group companies. The investment made by Accord Tradefin Pvt. Ltd. stand accepted by the Department. That from the balance sheet of the Appellant, it is evident that the 'stock in trade' and "work in progress' as at 31.3.2011 was Rs.25.95 Cr. and as at 31.3.2012, it went up to Rs.27.24 Cr. Therefore, it can be said that the capital raised was deployed in the business. This fact is corroborated from the revenue derived from the business. The balance sheet of the Appellant would show that revenue from operation as at 31.3.2011 was Rs.8.76 Cr. and as at 31.3.2012, it was Rs.14.84 Cr. Accordingly, the net worth of the Appellant was much more than the investment made by Accord Tradefin Pvt. Ltd. That from the audited balance sheet of Accord Tradefin Pvt. Ltd, it is evident that it has reserve and surplus of Rs.85.03 lacs and Rs.82.57 lacs as at 31.3.2011 & 31.3.2012 respectively. Further, from schedule "D" of the balance sheet as at 31.3.2011, it is discernable that total investment made by Accord Tradefin Pvt. Ltd in the group companies was Rs.1,12,25,000/-. It may also be noted

that its revenue as at 31.3.2011 and 31.3.2012 was Rs.29,50,000/- and Rs.24,00,000/- respectively.

7. We are of the considered view that this vital piece of evidences was rejected by the CIT(A) without there being any reasonable consideration of the circumstances due to which the assessee had failed to file evidence in respect of Ms. Sonia Chikara and Shri Chandra Vijay Chikara.

8. Thus, we consider it a proper case to restore the issue on merits to the files of the CIT(A) to take into consideration the additional evidence and pass an order afresh with regard to the issue.

9. Further, in regard to ITA No. 737/Del/for Assessment Year 2012-13, it is seen that the AO has made an addition U/s 68 of the Act on account of unsecured loans of Rs. 34,48,398/- received from M/s RMG Buildwell Pvt. Ltd., which is a sister concern of the assessee company, and an addition of Rs. 33,00,000/- was made on account of share application money received from M/s Accord Tradefin Pvt. Ltd. The, AO, on the basis of the fact that the case was examined in 2011-12, where the assessee allegedly could not establish the creditworthiness and genuineness of the transaction,

from Accord Tradefin Pvt. Ltd, made the addition. Further, a disallowance was made of Rs. 17,68,048/- for unexplained cash credit in the Vijaya Bank account. The AO has made disallowance of Rs. 1,01,794/- U/s 40(a)(i) of the Act for failure to deduct tax against a payment of Rs. 39,461/- made to Rajesh Chaudhary. A disallowance was made Rs. 99,460/- for short deduction of the TDS paid in respect of payments made as expenditure for the purpose of business during the year. The disallowance of Rs. 17,650/- was made for delay in deposit of contribution of employees towards provident fund after a due date under the relevant Acts.

10. The CIT(A) had deleted the addition of Rs. 34,48,398/- on account of unsecured loans from the sister concern. However, sustained the remaining additions and with regard to disallowance made on account of non-deduction of tax at source on the payment of commission to Rajesh Chandra, it was observed that this ground has not been pressed by the assessee at the time of hearing in the first appeal.

11. Now, with regard to the first ground of appeal in AY 2012-13, it comes up that there are two additions: one of Rs. 22 lakhs for the amount received from Accord Tradefin Pvt. Ltd. in regard to this, we

have restored the issue on merits to the file of the CIT(A) for A.Y. 2011-12 and as AO has discredited the transaction on the basis that in A.Y. 2011-12 it was found to be tainted. We consider appropriate to restore this issue also to the files of the CIT(A) to admit additional evidences from the assessee and pass a fresh order.

12. As is regard to addition of Rs. 11 lakh from Astha Agarwal, it comes up that CIT(A) has refused to show indulgence on the basis that the documentary evidences were not legible. Copies of which, are cited before us on page no. 28-30 of the Paper Book, being quite legible copies. Since the addition U/s 68 of the Act with regard to 22 lakhs stands restored, we consider ends of justice will be served to restore this issue also to the files of CIT(A), where the assessee can avail an opportunity to file legible copies.

13. As with regard to ground no. 2, we are satisfied that there is no explanation from the assessee to counter the factual findings of the tax authority below, that in the cash book, there was no corresponding entry or deposit of Rs. 1 lakh, despite the fact that assessee was found to be maintaining two cash books one of Delhi

Office and other for Mathura Office. Thus, there is no substance in ground no. 2.

14. As with regard to ground no. 3, we are of the considered view that the CIT(A) has not committed error in sustaining the disallowance in the absence of any evidence and before us too no further fact or evidence was indicated.

14. In the light of the aforesaid, the appeals of the assessee are partly allowed with the consequences following as per the determination of the issues as above.

Order pronounced in the Open Court on 13.06.2024

**Sd/-**  
**(GS PANNU)**  
**VICE PRESIDENT**

**Sd/-**  
**(ANUBHAV SHARMA)**  
**JUDICIAL MEMBER**

Dated: 13/06/2024.

Pooja/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT NEW DELHI

Date of dictation	3.6.24
Date on which the typed draft is placed before the dictating Member	4.6.24
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr. PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	