

आयकर अपीलिय अधिकरण, जयपुर न्यायपीठ, जयपुर  
IN THE INCOME TAX APPELLATE TRIBUNAL,  
JAIPUR BENCHES,"SMC" JAIPUR

श्री संदीप गोसाई, न्यायिक सदस्य के समक्ष  
BEFORE: Hon'ble SHRI SANDEEP GOSAIN, JUDICIAL MEMBER

आयकर अपील सं./ITA No. 741/JP/2023  
निर्धारण वर्ष/Assessment Year : 2012-13

M/s. Bindal Oils Pvt. Ltd. G-738 & 739, Phase-II RIICO Industrial Area, Bhiwadi, Tehsil: Tijara, Distt. Alwar	बनाम Vs.	The ITO Ward- Bhiwadi Bhiwadi
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AAACB 9884 G		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri R.S. Poonia, CA.

राजस्व की ओर से / Revenue by: Mrs. Monisha Choudhary, Addl. CIT-DR

सुनवाई की तारीख / Date of Hearing : 25/04/2024  
उदघोषणा की तारीख / Date of Pronouncement: 18/06/2024

आदेश / ORDER

PER: SANDEEP GOSAIN, JM

This appeal filed by the assessee is directed against order of the ld. CIT(A) dated 07-11-2023, National Faceless Appeal Centre, Delhi [ hereinafter referred to as (NFAC) ] for the assessment year 2012-13 raising therein following the grounds.

"1. That under the facts and in the circumstances of the case, the ld. CIT(A) has erred in law and facts in confirming the

additions made by AO on account of unexplained expenditure u/s 69C of the Act amounting to Rs.26,04,250/- to the income of the appellant on this count is wrong, unwarranted and bad in law. Kindly delete the addition.

2. That under the facts and in the circumstances of the case, the Id. CIT(A) has erred in law and facts in not applying N.P. Rate and wrongly treated the whole receipt as income of appellant is wrong, unwarranted and bad in law. Kindly provide appropriate relief to appellant.”

2.1 Apropos ground No. 1 & 2, the facts as emerges from the order of the Id.CIT(A) wherein the Id. CIT(A) has dismissed the appeal of the assessee by observing as under:-

“6.1. I have gone through the Assessment of the appellant. The AO has carried out additions to the tune of Rs 26,04,250/- being unexplained expenditure u/s 69C of the IT Act, 1961.

6.2 During the course of the assessment proceedings, the AO has stated that the appellant received accommodation entries of Rs. 26.04.250/- from Shri Trilok Goel Prop. M/s Kalka Udyog and M/s Kalka Flour Mills in shape of bogus purchase of Rs. 26,04,250/- edible oil without receiving any goods during the year under consideration.

6.3 Further the AO has stated that during the course of the assessment proceedings, the statement of Shri Trilok Goel was recorded and further Shri Trilok Goel had admitted to deal with business of cash entry operator to amounting of Rs. 26,04,250/- in the year under consideration

6.4 The AO treated the amount of Rs. 26,04,250/- as unexplained and thereby added the same to the total income of the appellant.

6.5 it is noted from the submissions furnished by the appellant before this office that the appellant has stated that the appellant has not made any transactions with Shri Trilok Goel. Further the appellant has stated that if appellant would have received or paid to this party from bank, transaction would have existed in the bank statement.

6.6 It is noted that the appellant has not furnished any documentary evidences to substantiate his claim. As the appellant has failed to discharge its onus of proving genuineness of the transaction the addition made by AO is upheld.

6.7 In view of the above, I am of the considerate view that the reason mentioned for the unexplained expenditure by the appellant is not satisfied. Therefore, the addition made to the tune of Rs. 26,04,250/- being unexplained expenditure by the AO is upheld.

6.8 Accordingly, the Grounds of the appeal are dismissed.

2.2 During the course of hearing of the case, the Bench noted that addition u/s 69C on account of bogus purchases from Shri Trilok Goel Prop. M/s. Kalka Udyog and M/s. Kalka Flour Mills was made by the AO in the hands of the assessee whereas at every stage of proceedings before the AO as well as CIT(A), the assessee had categorically denied of having entered into any transaction with Trilok Goel Prop. M/s. Kalka Udyog and M/s. Kalka Flour Mills. In this regard, the assessee has submitted certain bank account statement of SBI having A/c No. 52042772959 for the period 01-04-2011 to 31-03-2012 and pointed out that there

is not even a single entry reflected either on the credit or on the debit side of Shri Trilok Goel. Therefore, addition has been made wrongly in the hands of the assessee. Apart from this, the AO also issued query letter u/s. 142(1) of the I.T. Act, 1961 dated 14.10.2019 and asked specific queries, which are as follows:-

A. Did you know Sh. Trilok Goyal Prop. M/s Kalka Udyog (Khasra No. 496, Fatehpur Beri, New Delhi) and M/s Kalka Flour Mills (Shop No.4, Dakshinpuri, New Delhi-110062). If yes, then file details of business relation with them.

B. File copy of ledger account of M/s Kalka Udyog (Khasra No. 496, Fatehpur Beri, New Delhi), M/s Kalka Flour Mills (Shop No.4, Dakshinpuri, New Delhi- 110062) or in the name of Shri Trilok Goyal, S/o Sh. Prahlada Rai Goyal, R/O B-73, Duggal Colony, Devali Road, Khanpur, New Delhi for the period F.Y.2010-11 and F.Y.2011-12.

In response to the above mentioned query, the assessee reiterated again & again on 02.12.2019, 12.12.2019, 13.12.2019 and 15.12.2019 vide response to Notice ID No. 100018144042 and stated that:-

(i). The appellant denied for the same transaction with Shri Trilok Goel Prop. M/s. Kalka Udyog and M/s. Kalka Flour Mills.

(ii). Appellant also denied the same fact on oath by submitting an affidavit dated 14.11.2019 (i.e. duly statement. notarized) in support of his statement.

(iii) Further, appellant also submitted a certificate from the SBI bank that no transaction was made by appellant from the above mentioned firms during the F.Y. 2011-12 relevant to A.Y.

2012-13 in addition to certified bank account statement, already submitted.’’

However, ignoring the same, the addition made u/s 69 C amounting to Rs. 26,04,250/- was upheld by the Id. CIT(A)

2.3 During the course of hearing, the Id. DR supported the order of the Id CIT(A).

2.4 The Bench has heard both the parties and perused the materials available on record. The Bench on perusal of the records noticed that the assessee had been denying of having entered into dealing with Trilok Goel Prop. M/s. Kalka Udyog and M/s. Kalka Flour Mills. However, still ignoring the detailed reply and the documents filed by the assessee, the addition was made by the Revenue Authorities. The Id. AR of the assessee has filed the documents in the shape of bank account, affidavit and letter from the bank to counter the addition made by the lower authorities. In case the Department finds no evidence as to the dealing of the assessee with Shri Trilok Goel Prop. M/s. Kalka Udyog and M/s. Kalka Flour Mills after verification of the case then in that eventuality the addition made u/s 69C of the Act be deleted by the Department. Hence, the issue in question is restored to the file of the AO to decide it afresh but by providing adequate opportunity of being heard to the assessee and the assessee will submit the

necessary documents to contest the case before the AO for afresh consideration.

Thus the appeal of the assessee is allowed for statistical purposes.

2.5 Before parting, the Bench makes it clear that its decision to restore the matter back to the file of the AO shall in no way be construed as having any reflection or expression on the merits of the dispute, which shall be adjudicated by AO independently in accordance with law.

3.0 In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 18 /06/2024.

Sd/-

(संदीप गोसाई)

(Sandeep Gosain)

न्यायिक सदस्य / Judicial Member

जयपुर / Jaipur

दिनांक / Dated:- 18/06/2024

**\*Mishra**

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

1. The Appellant- M/s. Bindal Oils Pvt. Ltd.
2. प्रत्यर्थी / The Respondent- The ITO, Ward- Bhiwadi
3. आयकर आयुक्त / The Id CIT
4. आयकर आयुक्त(अपील) / The Id CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
6. गार्ड फाईल / Guard File (ITA No. 741/JP/2023)

आदेशानुसार / By order,

सहायक पंजीकार / Asstt. Registrar