

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'A', NEW DELHI**

**BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER AND
MS. MADHUMITA ROY, JUDICIAL MEMBER**

**I.T.A. Nos. 2960 & 2961/Del/2022
(Assessment Years : 2017-18 & 2013-14)**

Alka Jain
House No.66, Sector-7,
Panchkula, Panipat
Haryana – 134 109

Vs. DCIT
Central Circle
Karnal

PAN : ABOPJ 0916 B

(Appellant)

..

(Respondent)

Appellant by : -None-

Respondent by : Shri Kanv Bali, Sr. D.R.

Date of Hearing 13.06.2024

Date of Pronouncement 26.06.2024

ORDER

PER MS. MADHUMITA ROY – JUDICIAL MEMBER :

Both the appeals filed by the assessee are directed against the orders both dated 18.10.2022 passed by the Commissioner of Income Tax (Appeals)-3, Gurgaon under Section 250(6) of the Income Tax Act, 1961 (hereinafter referred as to 'the Act') arising out of the orders dated 12.05.2021 & 21.04.2021 passed by the DCIT, Circle – Karnal under Section 143(3) read with Section 153A(1)(b) of the Act for Assessment Years 2017-18 & 2013-14.

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2. None appeared on behalf of the assessee today or even on earlier occasion at the time of hearing of the matter. We thus find that the assessee is not interested to get the matter adjudicated. Hence, we proceed with the same *ex parte*.

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3. Assessee has challenged the confirmation of addition of Rs.14,50,000/- on account of unexplained credits under Section 68 of the Act.

4. The assessee received Rs.14,50,000/- from one Shri Ashok Singla in his Bank Account. Though, the assessee was asked to establish the identity, creditworthiness of Shri Singla and genuineness of the transactions, the same was failed to establish by producing cogent documentary evidence. Hence, the same was added to the total income of the assessee under Section 68 of the Act, which was further confirmed by the First Appellate Authority.

5. The First Appellate Authority while dealing with the issue observed as follows:

“5. Ground of appeal No.3

2.. This ground of appeal has been taken up by the appellant against the addition of Rs.14.50,000/- made by the AO on account of unexplained credits u/s 68 of the Act. During the assessment proceedings it was observed by the AO that the appellant has received

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amount of Rs.14,50,000/- from Sh. Ashok Singla in his bank account. The appellant was asked by the AO to establish identity and creditworthiness of Sh. Ashok Singla and genuineness of transaction. In response, the appellant failed to give any explanation or documentary evidence to establish identity and creditworthiness of Sh. Ashok Singla and genuineness of transaction. Thus, the addition of Rs.14,50,000.- was made by the AO on account of unexplained credits u/s 68 of the Act.

The appellant has submitted during the appellate proceedings that amount of Rs.14,50,000/- was received from Sh. Ashok Singla through banking channel.

After taking into account the facts and circumstances of this case, it is observed that the appellant has not been able to establish genuineness of transaction, identity and creditworthiness of Sh. Ashok Singla by failing to furnish copy of ITR, bank account statement and confirmation during assessment as well as appellate proceedings thereby failing to comply with provisions of the Act. Therefore, in view of the above facts, the addition of Rs.14,50,000/- is hereby confirmed u/s 69A of the Act. Accordingly, ground of appeal no.3 is dismissed.”

6. Having regard to the facts and circumstances of the matter, since the assessee failed to submit the required documents being copy of the ITR, Bank Statement and confirmation of Shri Singla, the addition was confirmed by First Appellate Authority which is found to be just and proper so as to warrant interference particularly in the absence of any assistance rendered by the assessee before us. The order passed by the CIT(A) is confirmed.

7. The assessee's appeal is found to be devoid of any merit and thus dismissed.

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8. Addition of Rs.10,75,000/- under Section 56(2)(vii)(c) of the Act is under challenge before us.

9. The impugned addition is on account of difference in fair market value and actual consideration paid by the assessee for purchase of shares. The observation made by Learned AO are as follows:

“It was observed by the AD that the appellant had invested amount of Rs 50,00,000/- in acquiring 125000 shares of JB Rolling Mills @Rs.40/- per share. The fair market value of shares as on 31.03.2017 was computed by the AO as per provisions of Bale 11UA of IT Rules, 1962 at Rs.48.60/- per share as against allotted to the appellant at Rs.40/- per share which resulted into Fair Market Value of 125000 shares at Rs.60,75,000/- as against Rs. 50,00,000/-. The appellant was required by the AO to explain as to why addition of Rs10,75,000/- on account of difference in fair market value and actual consideration paid for purchase of shares may not be added to her income.”

10. The assessee in reply thereto submitted the following :

“In response, the appellant submitted before the AO that FMV of shares as on 31.03.2016 comes at Rs.44.13/- per share and since the shares during the year under consideration were allotted to the existing shareholders, thus, provisions of section 56(2)(vii)(c) of the Act are not applicable. Further, it was submitted before the AO that in view of specific provisions of Section 55(2)(aa)(iii) cost of acquisition of these shares would be taken to be the actual price paid by the shareholder and same is not to be adjusted by the amount of deemed income in terms of section 49(4) of the Act. The explanation of the AO was considered by the AO and it was observed that the appellant had received shares of JB Rolling for consideration less than FMV of shares. Therefore, the differential amount of Rs. 10,75,000/- was added to the income of the

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appellant under the head "income from other sources' u/s 56(2) (vii) (c) of the Act."

11. During the first appellate proceedings while confirming the addition the Learned CIT(A) made the following observations :

"The appellant submitted during the appellate proceedings that in accordance with provisions of Rule 11UA of Income Tax Rules, 1962 the fair market value of shares is Rs. 44.13/- which is determined on the date of allotment of shares on the basis of balance sheet of preceding financial year Le as on 31.03.2016 The submission of the appellant has been reproduced as above.

After looking into facts and circumstances of the case, it is observed that the appellant was allotted 125000 shares of M/s JB Rolling Mills @Rs.40/- per share on 31.03.2017. As per the provisions of 56(2)(vii)(c) of the Act read with rule 11UA of IT Rules, 1962, Fair Market Value of the shares comes at Rs.48.60/-. Accordingly, there is no merit found in the submission of the appellant. Therefore, the AO was justified in making the addition of Rs 10,75,000/-under the head 'income from other sources' u/s 56(2)(vii)(c) of the Act. The addition of Rs.10,75,000/- is hereby confirmed. Ground of appeal no.2 is hereby dismissed."

12. As the assessee allotted 125000 shares of J.B. Rolling Mills @Rs.40/- per share on 31.03.2017, the fair market value of such shares comes at Rs.48.60/- per share in terms of the provision of Section 56(2)(vii)(c) read with Section 11UA of the Act. Therefore, the difference in fair market value and the actual consideration paid for purchase of shares has been rightly added by the Learned AO and so confirmed by the First Appellate Authority which is found to be just and

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proper so as to warrant interference particularly in the absence of any assistance rendered by the assessee before us.

13. The appeal filed by the assessee is found to be devoid of any merit and thus dismissed.

14. In the result, both the appeals are dismissed.

This Order pronounced in Open Court on 26/06/2024

Sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER

Sd/-
(MADHUMITA ROY)
JUDICIAL MEMBER

Dated 26/06/2024

Priti Yadav, Sr.PS

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI