

आयकर अपीलीय अधिकरण  
दिल्ली पीठ "एफ", दिल्ली  
श्री विकास अवस्थी, न्यायिक सदस्य एवं  
श्री अवधेश कुमार मिश्रा, लेखाकार सदस्य के समक्ष

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "F", DELHI  
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER &  
SHRI AVDHESH KUMAR MISHRA, ACCOUNTANT MEMBER

आअसं. 4884/दिल्ली/2019 (नि. व. 2010-11)  
ITA NO.4884/DEL/2019 (A.Y.2010-11)

Income Tax Officer,  
Ward-20(1), New Delhi  
PAN: ASVPS-3674-F

..... अपीलार्थी/ Appellant

बनाम Vs.

M/s Poltavsky TPS Power Services Ltd.,  
M-45, Commercial Complex, Greater Kailash-II,  
New Delhi 110048  
PAN No. AABCP-2692-R

..... प्रतिवादी/ Respondent

अपीलार्थी द्वारा/ Appellant by : Shri Vivek Vardhan, Sr.DR  
प्रतिवादीद्वारा/ Respondent by : Ms. Sangeeta Singh, CA  
सुनवाई की तिथि/ Date of hearing : 25/06/2024  
घोषणा की तिथि/ Date of pronouncement : 28/06/2024

आदेश/ORDER

**PER VIKAS AWASTHY, JM:**

This appeal by the Revenue is directed against the order of Commissioner of Income Tax (Appeals)-7, New Delhi (hereinafter referred to as 'the CIT(A)'), dated 28.03.2019, for assessment year 2010-11.

2. The solitary issue raised by the Department in appeal is against deleting the addition of Rs. 1,47,17,316/- by the CIT(A). The contention of Department is that the assessee was not able to prove creditworthiness of the creditors and

genuineness of the transaction, despite that the First Appellate Authority deleted the addition.

3. The facts of the case as emanating from records are; the assessee company was established in technical collaboration with JSC Poltava Turbomechanical Plant of Ukraine. The assessee is purportedly engaged in the businesses of supplying Steam Turbine Parts of 200 MW to Government agencies. The assessee filed its return of income for the impugned assessment year on 12.10.2010 declaring total income of Rs. 18,39,697/-. Notice u/s.143(2) of the Income Tax Act, 1961 (in short 'the Act') was issued to the assessee on 19.08.2010. In response to the said notice, the Authorized Representative of the assessee appeared before the Assessing Officer (AO) and sought time to furnish details. The necessary details were furnished initially. Thereafter, the AO issued show cause notice u/s 142(1) of the Act, on 28.02.2013 making a detailed inquiry. In response to the said notice, the assessee furnished some documents through its Authorized Representative; however, no submissions explaining the documents were allegedly made by the assessee. The AO found documents furnished by the assessee not to the satisfaction; hence, another show cause notice was issued on 28.02.2013. The assessee again without furnishing any reply/detailed submissions to the notice only filed copy of bank statement. Since, the assessee failed to assist the AO and provide necessary details in the specified manner, the AO proceeded to complete assessment u/s 144 of the Act. The AO vide order dated 28.03.2013 made addition of Rs. 3,91,67,316/- u/s. 68 of the Act, on account of unexplained bank credits. The AO further disallowed interest expenses of Rs. 28,38,943/- u/s. 37 of the Act.

3.1. Aggrieved by the assessment order dated 28.03.2013, the assessee filed appeal before the CIT(A). In First Appellate proceedings the assessee furnished additional evidences. The CIT(A) sought remand report from AO on the additional evidences filed by the assessee. The AO furnished remand report dated 23.09.2015. The CIT(A) after considering remand report deleted the addition made u/s 68 of the Act. Hence, the present appeal by the Revenue.

4. Shri Vivek Vardhan, representing the Department vehemently defended the assessment order and remand report given by AO in respect of the additional evidences filed by the assessee.

5. On the other hand, Ms. Sangeeta Singh, appearing on behalf of the assessee strongly supported the order of CIT(A) and prayed for dismissing appeal of the Revenue. She pointed that AO in remand report has given his observation which clearly vindicate submissions made by the assessee.

6. We have heard the submissions made by rival sides and have examined the order of authorities below. During the course of assessment proceedings the AO made addition of Rs. 3,91,67,316/- u/s 68 of the Act. During First Appellate proceedings, the assessee furnished necessary evidences to discharge its onus in proving genuineness of the loan transactions and the creditors. The additional evidences filed by the assessee were forwarded to the AO for his report. The relevant extract of remand report dated 23.09.2015 is reproduced by the CIT(A) in para 4.4 of the impugned order. The CIT(A) after considering comments of the AO and submissions of the assessee has dealt with various additions made u/s. 68 of the Act individually. The CIT(A) has given breakup of share application money

received by the assessee during the financial year 2008-09 against which shares were allotted during financial year 2009-10 i.e. relevant to impugned assessment year and also the share application money received during the relevant period. The details of breakup of share application money are given in para 4.6 of the impugned order. The CIT(A) deleted the addition of Rs. 2,34,50,000/- observing that the AO has added opening balances of share application money received in FY 2008-09.

7. Apart from above, the AO had made addition of Rs. 1,10,00,000/- on account of unexplained investment. The assessee had furnished necessary details during First Appellate proceedings. The AO in remand report dated 23.09.2015 after examining transaction gave his comments on the entries in the bank statement. The CIT(A) examined each transaction and deleted the entire addition of Rs. 1,10,00,000/- as the said amount was added twice.

8. Similarly, the addition u/s. 68 of the Act made by the Assessing Officer in respect of cash deposits, intra company transaction with subsidiaries, unsecured loans and share application money from directors etc. were deleted by the CIT(A) as the additions were made without verification/examination of records.

9. The First Appellate Authority in para 4.10 of the impugned order held that out of total addition of Rs.3,91,67,316/-, Rs. 2,34,50,000/- is liable to be deleted as it pertain to assessment year 2009-10 and has already been assessed to tax and in so far as addition of remaining amount of Rs 1,47,17,316/- the said amount was added either due to clerical error or without verification of records, which was subsequently accepted by AO in the remand report dated 23.09.2015, hence, the

said amount was also deleted. The Revenue has not been able to controvert the reasoned findings of the First Appellate Authority. We find no infirmity in the impugned order, hence, the same is upheld and appeal of the Revenue is dismissed being devoid of any merit.

10. In the result, appeal of the Revenue is dismissed.

Order pronounced in the open court on Friday the 28<sup>th</sup> day of June, 2024.

Sd/-

(AVDHESH KUMAR MISHRA)

लेखाकार सदस्य/ACCOUNTANT MEMBER

दिल्ली / Delhi, दिनांक/Dated 28/06/2024

**प्रतिलिपि अग्रेषितCopy of the Order forwarded to :**

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. The PCIT
4. विभागीय प्रतिनिधि, आय.अपी.अधि., दिल्ली /DR, ITAT, दिल्ली
5. गार्ड फाइल/Guard file.

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

BY ORDER,

//True Copy//

(Dy./Asstt. Registrar) ITAT, DELHI