

आयकर अपीलीय अधिकरण, कोलकाता पीठ 'बी', कोलकाता
IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH KOLKATA

श्री संजय गर्ग, न्यायिक सदस्य एवं श्री मनीष बोराड, लेखा सदस्य के समक्ष
Before Shri Sanjay Garg, Judicial Member and Dr. Manish Borad, Accountant Member

I.T.A. No.1316/Kol/2023
Assessment Year: 2012-13

Sachdev Steel Pvt. Ltd.....Appellant
Room No.18B, First Floor,
Karnani Estate, 209,
Acharya Jagdish Chandra Bose Road,
West Bengal-700017.
[PAN: AADCS7342D]

vs.

ITO, Circle-1(1), Kolkata..... Respondent

Appearances by:

Shri Miraj D. Shah, AR, appeared on behalf of the appellant.

Shri P. P. Barman, Addl. CIT-Sr. DR, appeared on behalf of the Respondent.

Date of concluding the hearing : April 10, 2024

Date of pronouncing the order : June 28, 2024

आदेश / ORDER

संजय गर्ग, न्यायिक सदस्य द्वारा / Per Sanjay Garg, Judicial Member:

The present appeal has been preferred by the assessee against the order dated 20.01.2023 of the National Faceless Appeal Centre [hereinafter referred to as 'CIT(A)'] passed u/s 250 of the Income Tax Act (hereinafter referred to as the 'Act').

2. The assessee in this appeal has agitated against the confirmation of addition of Rs.2,48,00,000/- made by the Assessing Officer treating the share application money received by the assessee as unexplained income of the assessee invoking provisions of section 68 of the Act.

3. At the outset, the Id. Counsel for the assessee has invited our attention to the impugned assessment order to submit that the Assessing Officer during the assessment proceedings noted that the

assessee had received share application/share allotment money from the following three parties:

Name of the applicants	Amount received
Bharat Bhushan Sachdev HUF	3000000/-
Shangrila Builders Pvt. Ltd.	4500000/-
Spoxy Vincom Pvt. Ltd.	17300000/-
Total	24800000/-

3.1 The Id. Counsel has further submitted that on being asked to explain about the identity and creditworthiness of the creditors and genuineness of the transaction, the assessee furnished the necessary documents and explained that no fresh share application money was received from the above-noted share subscribers. That the above-noted share subscribers were the group companies/related parties of the assessee company. That there were old outstanding loans of these parties towards the assessee, which were converted into share application money and share were allotted to the assessee company in discharge of old loan liability. However, the Assessing Officer did not examine or consider the above submission and simply made the addition of the aforesaid amount observing that the assessee has not produced any investor for examination before him.

4. The Id. CIT(A) confirmed the addition so made by the Assessing Officer.

5. Before us, the Id. Counsel for the assessee has referred to the copy of the paper-book and documents which were also filed before the Assessing Officer. The Id. Counsel for the assessee has invited our attention to page 13 of the paper-book, which is a copy of balance sheet

as on 31.03.2012, which shows that there was outstanding loan of Rs.30,00,000/- of Bharat Bhushan Sachdev HUF, further loan of Rs.45,20,000/- of Shangrila Builders Pvt. Ltd. and another loan of Rs.1,73,00,000/- of Spoxy Vincom Pvt. Ltd. as on 31.03.2011 i.e. in the financial year 2010-11. The ld. Counsel has further invited our attention to page 39 of the paper-book, vide which a resolution was passed by the Board of Directors, whereby, the unsecured loan of Rs.24800000/- on the total consideration of 124000 equity shares of Rs.10 each with security premium of Rs190/- per share were allotted to various parties by way of final settlement of the contract value for consideration otherwise than in cash. Further, the ld. Counsel has invited our attention to page 47 of the paper-book, which is confirmation of accounts by Bharat Bhushan Sachdev (HUF), wherein, a sum of Rs.30,00,000/- is shown as opening balance credit as on 01.04.2011. Similarly, at page 50 of the paper-book, there is a opening balance of Shangrila Builders Pvt. Ltd. of Rs.45,20,000/- as on 01.04.2011 and at page 62 of the paper-book, there is opening balance of Rs.1,73,00,000/- of Spoxy Vincom Pvt. Ltd. on 01.4.2011, which have been converted into share application and shares have been allotted to the respective parties during the financial year under consideration.

4. We have heard the rival contentions and perused the materials on record. We note that the above documents referred by the ld. Counsel for the assessee are enough to prove on record that no fresh share application money was received by the assessee during the year under consideration. The old loans were rounded off by way of share allotment to the respective creditors. Therefore, since no fresh amount either in cash or otherwise has been received by the assessee during the year and only the old loans were converted into the share allotment,

therefore, the observation of the Assessing Officer that the assessee has introduced the unexplained money as share application money, is not correct. Hence, the additions made by the Assessing Officer are not justified in this case and accordingly the same are ordered to be deleted.

5. In the result, the appeal of the assessee stands allowed.

Kolkata, the 28th June, 2024.

Sd/-
[डॉक्टर मनीष बोरड /Dr. Manish Borad]
लेखा सदस्य /Accountant Member

Sd/-
[संजय गर्ग /Sanjay Garg]
न्यायिक सदस्य /Judicial Member

Dated: 28.06.2024.

RS

Copy of the order forwarded to:

1. Sachdev Steel Pvt. Ltd
2. ITO, Circle-1(1), Kolkata
3. CIT (A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches