

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

**BEFORE SHRI SAKTIJIT DEY, VICE-PRESIDENT
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

ITA No.2584 & 2585/Del/2023
Assessment Year: 2012-13 & 2014-15

M/s. Horizon Global Ltd., C/o-Plot No.8, Sector-5, Mathura Road, Faridabad	Vs.	Asstt. Commissioner of Income Tax, Central Circle-II, Faridabad
PAN :AABCH4308N		
(Appellant)		(Respondent)

Assessee by	Dr. Rakesh Gupta, Advocate
Department by	Sh. Vivek Kumar Upadhyay, Sr. DR

Date of hearing	03.07.2024
Date of pronouncement	09.07.2024

ORDER

PER SAKTIJIT DEY, VICE-PRESIDENT

Captioned appeals by the assessee arise out of two separate orders, both dated 09.01.2023, of learned Commissioner of Income Tax (Appeals), Gurgaon, for the assessment years 2012-13 and 2014-15.

2. The assessee has raised multiple grounds in the memorandum of appeal. Besides, the assessee has also raised

additional grounds challenging the validity of the assessment orders on account of non-mentioning of Document Identification Number (DIN). Though, the assessee has raised multiple grounds, however, the basic grievance of the assessee before us is against disposal of the appeals by learned first appellate authority without properly considering the submissions and additional evidences filed by the assessee.

3. We have heard Dr. Rakesh Gupta, learned counsel appearing for the assessee and Sh. Vivek Kumar Upadhyay, learned Departmental Representative.

4. Briefly the facts are, the assessee is a resident corporate entity stated to be engaged in the business of business and management consultancy services. For the assessment years under dispute, the assessee had filed its returns of income in regular course under section 139(1) of the Act. Subsequently, the Assessing Officer received information from the Investigation Wing of the department indicating that in course of a survey action under section 133A of the Act conducted on the assessee, it was noticed that in the assessment years under dispute, the assessee had received share capital/share premium from bogus/non-

existing/paper companies. Based on such information, the Assessing Officer reopened the assessments under section 147 of the Act. In course of assessment proceedings, the Assessing Officer called upon the assessee to prove the genuineness of share capital/share premium. As alleged by the Assessing Officer, queries raised by the Assessing Officer through notices issued under sections 142(1), 143(2) and 144 of the Act were not complied. Thus, ultimately, he proceeded to complete the assessments adding back the amounts received towards share capital/share premium in both the assessment years under dispute. Against the assessment orders so passed, the assessee preferred appeals before learned first appellate authority, inter alia, challenging the validity of reopening of assessment under section 147 of the Act. In course of proceedings before learned first appellate authority, the assessee furnished various documentary evidences as additional evidence. However, additional evidences furnished by the assessee were not admitted by learned first appellate authority stating that they were not found to be credible. Ultimately, learned first appellate authority

dismissed all the grounds raised by the assessee while confirming the additions made by the Assessing Officer.

5. Having considered rival submissions, we find, the disputed additions were made by the Assessing Officer alleging failure on the part of the assessee to furnish evidence to establish the genuineness of share application money/share premium etc. It is observed, before the first appellate authority, the assessee did furnish various documentary evidences, including confirmations to establish the genuineness of share application money/share premium received. However, learned first appellate authority has declined to admit the evidences stating that such evidences are not credible. It further appears, on going through the additional evidences furnished by the assessee, learned first appellate has unilaterally concluded that the evidences produced are not credible. Such conclusion has been reached by learned first appellate authority merely on doubt and suspicion and not through any inquiry conducted by him to ascertain the authenticity of the evidences furnished. Even, he has not called upon the Assessing Officer to examine the evidences and furnish report regarding the veracity of assessee's claim.

6. Rejection of additional evidences without proper inquiry, in our view, is against Rules of Natural Justice, as the assessee cannot be prevented from establishing the genuineness of share application money/share premium by furnishing evidences. Whether the evidences furnished by the assessee are genuine or not, can be established only through proper inquiry and not on doubt and suspicion. Since, the evidences furnished by the assessee were rejected without making proper inquiry into them, in our view; it has caused prejudice to the assessee. Therefore, we are inclined to restore the issues arising in the appeal, including the legal issues arising in the main grounds as well as the additional grounds, to the file of the Assessing Officer for *de novo* adjudication after providing due and reasonable opportunity of being heard to the assessee. It is made clear, it will be open to the assessee to furnish any other evidence in addition to the evidences furnished before learned first appellate authority to establish the genuineness of share application money/share premium. Evidences furnished by the assessee must be duly examined and verified by the Assessing Officer before deciding the issue whether the share application money/share premium is

received by the assessee is genuine or not. While doing so, assessee must be provided due and reasonable opportunity of being heard. Accordingly, the impugned orders of learned first appellate authority are hereby set aside. Grounds are allowed for statistical purposes.

7. In the result, appeals are allowed for statistical purposes.

Order pronounced in the open court on 9th July, 2024

**Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER**

**Sd/-
(SAKTIJIT DEY)
VICE-PRESIDENT**

Dated: 9th July, 2024.

RK/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi