

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
'SMC' BENCH, KOLKATA**

**Dr. Manish Borad, Accountant Member**

**I.T.A. No. 558/KOL/2024  
Assessment Year: 2013-2014**

***Onkara Infratech Pvt. Ltd.,.....Appellant  
1<sup>st</sup> Floor, Suit No. 5,  
Onkara Chambers,  
30, Bentinck Street,  
Near Lalbazar, Kolkata-700001  
[PAN:AADCC4841K]***

**-Vs.-**

***Income Tax Officer,.....Respondent  
Ward-6(1), Kolkata,  
Aayakar Bhawan,  
P-7, Chowringhee square,  
Kolkata-700069***

**Appearances by:**

*Shri Akkal Dudhewala, A.R. appeared on behalf of the  
assessee*

*Shri Partha Pratim Barman, Addl. CIT, appeared on  
behalf of the Revenue*

**Date of concluding the hearing : July 16, 2024**

**Date of pronouncing the order : July 22<sup>nd</sup>, 2024**

**O R D E R**

The present appeal is directed at the instance of assessee against the order of Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 14<sup>th</sup> November, 2023 passed for assessment year 2013-14.

2. The grounds of appeal raised by the assessee in this appeal revolve around the sole addition for unexplained/unreconciled deposits of Rs.23,25,802/-.

3. Ld. Counsel for the assessee has taken me through the relevant facts of the case as well as the paper book containing 84 pages. The crux of his argument are that in the first round of proceeding carried out under section 143(3) of the Act, the estimated addition of 21% was made for alleged difference of Rs.34,45,820/- between the deposits appearing in the Bank statement, vis-à-vis the books of account. The assessee carried the matter in appeal before the ld. CIT(Appeals) and succeeded, but before passing of the order by ld. CIT(Appeals), ld. PCIT carried out the revisionary proceedings and directed the ld. Assessing Officer to reframe the assessment by not estimating the addition of 21% but to make the total addition of the alleged difference. In compliance, the ld. Assessing Officer passed the order on 31.07.2018 and made the total addition. Being aggrieved, the assessee preferred appeal before the ld. CIT(Appeals), but due to unavoidable reasons failed to appear and the addition made by the ld. Assessing Officer was sustained.

4. Ld. Counsel for the assessee submitted that ld. CIT(Appeals) in his order dated 18.07.2019, which is arising out of the original order under section 143(3) on 22.02.2016, has already examined the issue in details and the assessee placed reliance on the finding of ld. CIT(Appeals).

5. On the other hand, ld. D.R. vehemently argued supporting the order of lower authorities.

6. I have heard the rival contentions and gone through the relevant material placed before me. From the record, I notice that the assessee is a Private Limited Company and filed its return of income for the relevant assessment year on 14.12.2013 declaring total income at Rs.12,500/-. During the course of scrutiny proceeding under section 143(3) of the Act, the ld. Assessing Officer while examining the summary of the loans and advances account noted that there is a decrease in loans and advances but it was less than the deposit appearing the Bank account. He thus calculated the excess deposit appearing in Bank account at Rs.34,45,820/- and thereafter treating it as a business receipt estimated profit @ 21% and made the addition of Rs.7,20,000/-. The assessee preferred appeal before the ld. CIT(Appeals), but in the meantime revisionary proceedings were carried out by the ld. PCIT and vide order dated 13.03.2018 passed under section 263 of the Act, directions were given to ld. Assessing Officer to recompute the income without estimating the profit and make the total addition of the alleged difference. In compliance, ld. Assessing Officer framed the assessment under section 143(3) read with section 263 of the Act and made the addition. The assessee further failed to get relief from the ld. CIT(Appeals) on account of non-appearance.

7. However, against the order passed under section 143(3) of the Act on 22.02.2016, the issue of estimation of income on the alleged

difference, ld. CIT(Appeals) passed the order under section 250 of the Income Tax Act on 18.07.2019, which is appearing at pages 33 to 41 of the paper book. He after elaborately going through the reconciliation statement filed by the assessee held that there could not have been any occasion for the ld. Assessing Officer to make the impugned addition for the alleged difference without backed by any cogent material on record. I observe that the assessee has filed written submission giving particulars of reconciliation statement and the relevant part is extracted below:-

*“9. Even otherwise and on merits it is submitted that the impugned addition of Rs.23,25,802/- is grossly unjustified as there is no difference between the deposits appearing in bank statement vis-a-vis the books of accounts. The appellant submits that the details of gross deposits in bank account vis-a-vis the books of accounts are as follows :-*

*DCB Bank:*

SI. No.	Date	Particulars of nature & sources	Amount (Rs.)
1	11.05.2012	Income tax refund	26,635
2	18.09.2012	Loan repayment by Bengal Steel Industries Ltd	25,00,000
3	24.09.2012	Loan repayment by Bengal Steel Industries Ltd	20,00,000
4	03.10.2012	Loan repayment by Sri Shankar Swan Estate	30,00,000
5	11.10.2012	Loan repayment by Bengal Steel Industries Ltd	10,00,000
6	03.11.2012	Loan repayment by Maruti Enterprises	5,00,000
		Sub-total	90,00,000
		Total (A)	90,26,635

*Axis Bank:*

SI. No.	Date	Particulars of nature & sources	Amount (Rs.)
1	26.10.2012	Cash deposit (sourced from business cash)	20,000
2	18.09.2012	Interest payment by Llyods Commercial Pvt. Ltd.	7,500

	Total (B)	27,500
<u>Gross Receipts (A + B):</u>		
1	DCB Bank	90,26,635
2	Axis Bank	27,500
	Gross	90,54,135

10. From the above it shall be noted that there were credits to the tune of Rs.90,00,000/- on account of refund of loans & advances and not Rs.59,01,827/- as wrongly presumed by the AO. The AO had grossly erred in simply assuming that the net decrease in the Head 'Loans & Advances' as appearing in the Balance Sheet as on 31.03.2013 i.e. Rs.59,01,827/- [2,08,95,086 - 1,49,93,259] [Refer Page 14 of Paper Book] represented the credits / receipts in bank statement. The appellant has enclosed the relevant ledger summary of the Head 'Loans & Advances' at Page 52 of Paper Book from which is evidently clear that the gross receipts / refunds inclusive of interest and TDS was Rs.90,78,974/- out of which again fresh loans were advanced by the appellant leading to net decrease of only Rs.. In support of the same, the relevant party-wise ledgers along with balance confirmations is also enclosed at Pages 53 - 64 of Paper Book which clearly shows that the gross receipts / refunds out of loans & advances was Rs.90,00,000/- and not Rs.59,01,827/-. To further substantiate the foregoing, the appellant has also enclosed the relevant audited financial statements as on 31.03.2012 along with party-wise ledgers of 'Loans & Advances' at Pages 72 - 84 of Paper Book to substantiate the receipt of refund of loans which were granted in earlier year/s.

11. Apart from the above, there was receipt of Rs.26,635/- by way of income-tax refund which is discernible from the entry in the bank statement available at Page 67 of Paper Book. This is also corroborated by Form 26AS which is enclosed at Pages 69 - 71 of Paper Book. Further, the appellant had deposited cash of Rs.20,000/- in the bank account out of the cash available in the books of accounts. This fact is also verifiable from the entry in the bank statement available at Page 68 of Paper Book.

12. Out of the interest of Rs. 1,17,414/- credited in P&L A/c, the appellant had only received / realized interest of Rs.7,500/- from M/s Llyod Commercial Pvt. Ltd. and that the balance interest was outstanding and receivable. The AO however wrongly assumed that the entire interest was realized which is ex-facie erroneous.

13. In view of the above details and facts, it shall thus be noted that the receipts as per books of accounts was Rs.90,54,135/- viz., (a) refund of loans & advances of Rs.90,00,000/-, (b) income tax refund of Rs.26,635/-, (c) deposit out of cash balance of Rs.20,000/- and (d) receipt of interest income of Rs.7,500/-. Hence, the receipts as per books of accounts fully tallied with the credits appearing in the bank statement and that there was

*no alleged difference of Rs.30,45,802/- and in that view of the matter the impugned addition deserves to be deleted.*

8. I, on perusal of the submissions filed by the assessee and the finding of the ld. CIT(Appeals) in the first round of proceeding dealing with the factual aspect of the alleged difference, find that the basis of alleged difference arises from the group summary of loans and advances, where total opening balance shows at Rs.2,09,77,079/-. The total debit transaction during the year shown in the loans and advances is at Rs.31,29,155/-, whereas the total credit transaction shows at Rs.90,78,974/-. The closing balance of loans and advances shows at Rs.1,50,27,260/-. Ld. Assessing Officer took the difference between the opening and closing balance of loans and advances, which is Rs.59,49,419/- and then the ld. Assessing Officer on the basis of his knowledge and understanding compared this figure of reduction in loans and advances during the year with the total deposits in the Bank account for the period from 11.05.2012 to 28.03.2013, which comes to Rs.94,54,135/- and calculated the alleged difference. This exercise of the assessee is untenable and is based on merely surmises and conjectures. Bank account does not have the only transaction relating to the amount of receipt and payment under the head 'loans and advances', but there are other transactions also, which has been duly reflected in the reconciliation statement.

9. After going through the relevant documents, I am of the view that ld. Assessing Officer has grossly erred in simply matching the net decrease under the head "loans and advances" appearing in the balance sheet with the credits or receipts of Bank statement.

Since there is no difference as alleged by the ld. Assessing Officer in the assessment order framed after directions of the ld. PCIT, I am inclined to set aside the finding of ld. CIT(Appeals) and delete the addition of Rs.36,78,051/- (addition of Rs.7,20,000/- made by the ld. Assessing Officer in the order under section 143(3) of the Act, which was further added by Rs.23,25,802/- by the ld. Assessing Officer in the order framed under section 143(3) r.w.s. 263 of the Act). Thus effective grounds of appeal raised by the assessee are allowed.

**10. In the result, the appeal of the assessee is allowed.**

Order pronounced in the open Court on 22/07/2024.

Sd/-

**(Manish Borad)**  
**Accountant Member**

***Kolkata, the 22<sup>nd</sup> day of July, 2024***

*Copies to :(1 Onkara Infratech Pvt. Ltd.,  
1<sup>st</sup> Floor, Suit No. 5,  
Onkara Chambers,  
30, Bentinck Street, Near Lalbazar,  
Kolkata-700001*

*(2) Income Tax Officer,  
Ward-6(1), Kolkata,  
Aayakar Bhawan,  
P-7, Chowringhee square, Kolkata-700069*

*(3) Commissioner of Income Tax (Appeals),  
National Faceless Appeal Centre (NFAC), Delhi;*

*(4) CIT- , Kolkata*

*(5) The Departmental Representative;*

*(6) Guard File*

*TRUE COPY*

*By order*

*Assistant Registrar,  
Income Tax Appellate Tribunal,  
Kolkata Benches, Kolkata*

***Laha/Sr. P.S.***