

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "A", MUMBAI**

**BEFORE JUSTICE (RETD.) SHRI C.V. BHADANG, PRESIDENT
AND
SHRI B.R. BASKARAN, ACCOUNTANT MEMBER**

ITA No. 3609/Mum/2024
Assessment Year 2012-13

ITO-22(2)(1), 3 rd Floor, Piramal Chambers, Lalbaugh, Parel, Mumbai.	vs.	L C P Trust, 228, Pragati Indl. Estate, NM Joshi Marg, Lower Parel, Mumbai PAN : AAATL0814B
(Appellant)		(Respondent)

For Assessee :	Shri Rajan Vora & Shri Lekh Mehta
For Revenue :	Shri Manoj Kumar Sinha, Sr. DR

Date of Hearing :	22-08-2024
Date of Pronouncement :	30-08-2024

ORDER

PER B.R. BASKARAN, A.M :

The Revenue has filed this appeal challenging the order dt. 21-05-2024 passed by the Ld. Commissioner of Income Tax (Appeals)-NFAC, Delhi [Ld.CIT(A)] and it relates to the Assessment Year (AY.) 2012-13. The Revenue is aggrieved by the decision of the Ld.CIT(A), deleting of Rs.2.33 crores made by the AO u/s. 69A of the Income Tax Act, 1961 ('the Act').

2. The facts relating to the case are that the assessee is a Trust, deriving income from other sources. The assessee filed its return of income for the year under consideration on 27-09-2012 declaring NIL income. Subsequently, the AO received information that the assessee has received Rs. 2.33 crores in his bank account maintained with SBI during the FY. 2011-12. Based on this information, the AO re-opened the assessment by issuing a notice u/s. 148 of the Act. Before the AO, the assessee submitted that the above said amount was received from Joitabhai Trust which owed a sum of Rs.5.34 crores to the assessee as on 01-04-2011. The AO, however, disbelieved the above said explanation by observing that the assessee has not made any sales or purchases from the above said persons during the year. Accordingly, he observed that the reply given by the assessee is general in nature and made addition Rs. 2.33 crores as un-explained income of the assessee u/s. 69A of the Act.

3. Before the Ld.CIT(A), the assessee furnished break-up details of Rs. 2.33 crores received in its bank account, which is as under:-

Sr.No.	Date of receipt	Amount Rs.	Remarks
01	09-09-2011	1,43,00,000/-	From Joitabhai Trust
02	15-11-2011	50,00,000/-	From Joitabhai Trust
03	24-05-2012	40,00,000/-	From Naisa Industries
		2,33,00,000/-	

4. It was submitted before Ld CIT(A) that M/s. Naisa Industries is the proprietary concern of the assessee and the same was received on 24-05-2012 and the said period falls in the succeeding year. Hence, the said amount could not have been assessed by the AO in the AY. 2012-13. Further, it was submitted that the receipt of money from the proprietary concern of the assessee is a case of receipt of its own money. With regard to amount received from Joitabhai Trust, it was submitted that the above said trust owed a sum of Rs. 5.34 crores to

the assessee as on 01-04-2011 and a part of the same was received during the year. The Ld.CIT(A) was convinced with the above said explanations furnished by the assessee. Accordingly, he directed the AO to delete the addition and the Revenue is aggrieved.

5. We heard the parties and perused the record. Before us the assessee has filed copy of the Ledger account of the assessee as available in the Books of Joitabhai Trust. A perusal of the same would show that the above said trust acknowledges that it owes a sum of Rs.5.34 crores to the assessee herein as on 1-04-2011. We notice that there were transactions of repayments and receipt of money.

**Joitabhai Trust
L C P Trust
Ledger Account**

1-Apr-11 to 31-Mar-12

Date	Particulars	Vch Type	Vch No.	Debit	Page 1 Credit
1-Apr-11	By Opening Balance				5,34,96,000.00
30-May-11	To State Bank of India-48918 Cheque Ch. No. :850854 Amount paid as loan to LCP Trust	Payment 30-5-2011	40,00,000.00 Cr	1 40,00,000.00	
18-Jun-11	To State Bank of India-48918 Cheque Ch. No. :850855 paid as loan to LCP Trust	Payment 18-6-2011	1,00,00,000.00 Cr	2 1,00,00,000.00	
9-Sep-11	To State Bank of India-48918 Cheque Ch. No. :850857 amount paid as loan to LCP trust	Payment 9-9-2011	1,43,00,000.00 Cr	3 1,43,00,000.00	
8-Nov-11	To State Bank of India-48918 Cheque Ch. No. :850858 amount paid as loan to LCP Trust	Payment 8-11-2011	50,00,000.00 Cr	4 50,00,000.00	
22-Nov-11	By State Bank of India-48918 Cash Ch. No. :861416 Amount received from LCP Trust against Loan	Receipt 22-11-2011	50,00,000.00 Dr	6	50,00,000.00
				<u>3,33,00,000.00</u>	<u>5,84,96,000.00</u>
	To Closing Balance			<u>2,51,96,000.00</u>	<u>5,84,96,000.00</u>
				<u>5,84,96,000.00</u>	<u>5,84,96,000.00</u>

5.1. It could be seen that the assessee has received a sum of Rs.3.33 crores during the current year out of the opening balance of Rs.5.34 crores. From the balance sheet as on 31.3.2012 filed by the assessee, we notice that the Joitabhai trust is reflected in the "Loans and Advances" schedule placed at page 38 of the paper book with the balance of Rs.2,51,96,000/-. Hence, we do not find any reason to

suspect the claim of realisation of outstanding amount. There cannot be any dispute that the realisation of outstanding amount cannot be characterised as income. Further, when the transactions of receipt of money have been duly recorded in the books of accounts, the same cannot be treated as un-explained money in the hands of the assessee. Though the assessee has offered certain explanations about the sum of Rs.40 lakhs received from its proprietary concern M/s. Naisa Industries, we notice that the same was a new explanation given before the Ld CIT(A). In any case, the amount of Rs. 2.33 crores added by the AO is less than the amount of Rs. 3.33 crores received from Joitabhai Trust.

5.2. Since we have held that the amount received from Joitabhai Trust is neither income nor un-explained money, we are of the view that the Ld CIT(A) was justified in deleting the addition of Rs. 2.33 crores. Accordingly, we confirm the order passed by the Ld.CIT(A).

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

Order pronounced in the open court on 30th August, 2024

Sd/-
(JUSTICE (RETD.) C.V. BHADANG)
PRESIDENT

Sd/-
(B.R. BASKARAN)
ACCOUNTANT MEMBER

Mumbai,

Date : 30-08-2024

TNMM

Copy to :

- 1) The Appellant
- 2) The Respondent
- 3) The CIT concerned
- 4) The D.R, "A" Bench, Mumbai
- 5) Guard file

By Order

Dy./Asst. Registrar
I.T.A.T, Mumbai