

आयकर अपीलीय अधिकरण, हैदराबाद पीठ में
**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "A" , HYDERABAD**

BEFORE

**SHRI LALIET KUMAR, HON'BLE JUDICIAL MEMBER
AND
SHRI G. MANJUNATHA, HON'BLE ACCOUNTANT MEMBER**

ITA No.522/Hyd/2024		
Assessment Year – 2018-19		
Guptha Infraventures and Constructions Private Limited, Hyderabad. PAN : AAFCG5045F.	Vs.	The Deputy Commissioner of Income Tax, Circle – 2(1), Hyderabad.
(Appellant)		(Respondent)
Assessee by:	Shri Kumar Pal Tated, CA (appeared through virtual hearing)	
Revenue by:	Shri Srinath Sadanala, Sr.A.R.	
Date of hearing:	03.09.2024	
Date of pronouncement:	04.09.2024	

ORDER

PER LALIET KUMAR, J.M.

This appeal is filed by the assessee, feeling aggrieved by the order passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 13.03.2024 for the AY 2018-19 on the following grounds :

2. The grounds raised by the assessee reads as under :

- “1. The Order of Assessment is bad in law and on facts of the case.*
- 2. The Assessing Officer erred in bringing to tax share capital of Rs.50,00,000/-.*
- 3. The Assessing Officer, having observed at Para No.3.3 of Order that identity of the investors has been identified, failed in taxing share capital without making any further inquiries/enquiries.*
- 4. The Assessing Officer ought to have recognized that failure to mention the mode of receipt of money is only a typographical error, when evidence in the form of confirmation letters were filed and accordingly the AO could not make out a case calling for addition u/s 68.”*

3. Facts of the case, in brief, are that assessee is a company engaged in the business of construction. Assessee filed the return of income for A.Y. 2018-19 on 23.03.2019 admitting total income of Rs.90,85,170/-. The case was selected for scrutiny under CASS. Thereafter, notice u/s 143(2) dt.22.09.2019 and notice u/s 142(1) dt.07.01.2020 were issued to the assessee calling for required details. During the course of assessment proceedings, Assessing Officer observed an increase in share capital of Rs.50,00,000/- and hence, asked the assessee to furnish the source for the increase in share capital along with other details. As the assessee has not provided any information, Assessing Officer had issued a show cause notice along with draft assessment order proposing addition of Rs.50,00,000/- towards unexplained credit u/s 68 of the Act on 16.04.2021. In response,

assessee submitted that it has received the amount through bank however, has not furnished the relevant bank statements. As the assessee has failed to prove the creditworthiness of the persons and the genuineness of the transaction and source for such persons, Assessing Officer treated the same as unexplained credit u/s 68 of the Act and added Rs.50,00,000/- to the returned income of the assessee. Thereafter, initiated penalty proceedings separately u/s 271AAC of the Act. Thus, Assessing Officer completed the assessment u/s 143(3) r.w.s. 144B of the Act on 23.04.2021.

4. Feeling aggrieved by the order passed by the Assessing Officer, assessee filed appeal before the Ld. CIT(A) / NFAC, who dismissed the appeal of assessee.

5. Feeling aggrieved with the order of ld.CIT(A), assessee is now in appeal before us.

6. The ld.AR has brought our attention to Paragraphs 4.1 to 4.3 of the order of ld.CIT(A), which is to the following effect :

“4.1 Appeal Notices were issued to the assessee on 27.07.2022, 30.08.2022, 26.02.2024, 04.03.2024 fixing the case for 1 1.08.2022, 14.09.2022, 04.03.2024, 11.03.2024 respectively. The assessee has filed written submission on 06.03.2024 and 08.03.2024.

4.2 have gone through the assessment order and record available. The Assessing Officer (AO) conducted a thorough scrutiny Of the case Of M/S. Gupta Infracventures and Constructions Pvt. Ltd. for the assessment year

2018-19. The case was selected for scrutiny under the Computer Assisted Scrutiny Selection (CASS) system, and notices under sections 143(2) and 142(1) were duly served on the assessee. Despite repeated opportunities, the assessee did not furnish the details requested, leading to the case being considered for assessment under the Faceless Assessment Scheme, 2019. The AO noted an increase in share capital of Rs. 50,00,000/- during the assessment year under consideration. The assessee was asked to furnish details regarding the source of this increase, including the identity of investors, their creditworthiness, and the genuineness of the transactions. However, the assessee failed to provide satisfactory explanations or supporting documents. In response to the show cause notice issued by the AO, the assessee claimed that the share capital was contributed by the shareholders through bank transactions. However, the AO found the explanations provided by the assessee to be insufficient, as the assessee failed to furnish relevant details such as the mode of investment and relevant bank statements. Considering that the assessee failed to prove the creditworthiness of the investors and the genuineness of the transactions, the AO made an addition of Rs. as unexplained credit under section 68 of the Income Tax Act, 1961. This amount was assessed as income of the assessee and taxed under section 115BBE of the Act.

4.3 I have gone through the assessment order and record available. The Assessing Officer (AO) conducted a thorough scrutiny of the case of M/S. Gupta Infrastructures and Constructions Pvt. Ltd. for the assessment year 2018-19. The AO noted an increase in share capital of Rs. 50,00,000/- during the assessment year under consideration. Despite notices and opportunities given to the assessee to furnish details regarding the source of this increase, including the identity of investors, their creditworthiness, and the genuineness of the transactions, the assessee failed to provide satisfactory explanations or supporting documents. In response to the show cause notice issued by the AO, the assessee claimed that the share capital was contributed by the shareholders through bank transactions. However, the AO found the explanations provided by the assessee to be insufficient, as relevant details such as the mode of investment and relevant bank statements were not furnished. Consequently, the AO made an addition of Rs. 50,00,000/- as unexplained credit under section 68 of the Income Tax Act, 1961, and assessed it as income of the assessee, taxed under section 115BBE of the Act. During the appellate proceedings, the appellant has not submitted the complete details of share capital of Rs. 50,00,000/- along with evidences showing the link of money travelling from investor to the company. No income tax return of the investors have been provided. Given the lack of evidence provided by the assessee to substantiate the source and genuineness of the increase in share capital, confirming the findings of the assessing officer seems reasonable. The AO has acted based on the available material and made the addition in accordance with the provisions of the Income Tax Act. Since no substantial

evidence has been filed to contest the findings of the assessing officer, confirming AO's decision appears to be appropriate.”

7. It was submitted by the ld.AR that the ld.CIT(A) while passing the order, has not considered the written submissions filed by the assessee explaining the genuineness of the transactions, creditworthiness of the persons and the source for such persons. The Learned AR further submitted that the ld.CIT(A) may be directed to reconsider the matter, taking into account the written submissions filed by the assessee, and thereafter pass an appropriate order.

8. On the other hand, ld.DR relied upon the orders of the lower authorities.

9. We have heard the rival submissions and perused the material on record. In view of the ld.AR's contention that written submissions filed by the assessee clearly establishes the genuineness of the transactions, creditworthiness of the persons and the source of such persons, we are of the opinion that the ends of justice will be met if the matter is remanded back to the file of ld.CIT(A) with a direction to decide the issue after considering the written submissions filed by the assessee and affording the opportunities of hearing to the assessee in accordance with law. In light of the above, the order of the ld.CIT(A) is set aside and the

matter is remanded to the file of Id.CIT(A) for fresh consideration, with a direction to re-evaluate the written submissions and pass a detailed speaking order in accordance with the law. The assessee shall be at liberty to file documents, if any, as required for proving its case. Needless to say the Id.CIT(A) shall examine the written submissions / evidence filed by the assessee and also the other documents available on record. We have not adjudicated the other grounds on merits as we are setting aside the orders passed by the lower authorities to the file of Id.CIT(A) for fresh adjudication. Thus, the grounds of the assessee are allowed for statistical purposes.

10. In the result, the appeal of the assessee is treated as allowed for statistical purposes.

Order pronounced in the Open Court on 4th September, 2024.

Sd/-

Sd/-

(G. MANJUNATHA) ACCOUNTANT MEMBER	(LALIET KUMAR) JUDICIAL MEMBER
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Copy to:

S.No	Addresses
1	Guptha Infraventures and Constructions Private Limited, Flat No.304-H.No.7-1-618/V, Vindhya Apartments, Ameerpet, Hyderabad,Telangana – 500038.
2	The Deputy Commissioner of Income Tax, Circle 2(1), Hyderabad.
3	PrI.CIT, Hyderabad.
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order