

| आयकरअपीलीयअधिकरणन्यायपीठ,मुंबई|
IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH, MUMBAI

BEFORE SHRI NARENDRA KUMAR BILLAIYA, HON'BLE ACCOUNTANT MEMBER
&
SHRI SUNIL KUMAR SINGH, HON'BLE JUDICIAL MEMBER

I.T.A. No.353/Mum/2024
(Assessment Year:2010-11)

Daksha Abani Das, A-504, Remi Bizcourt 5 th Floor, Shah Industrial Estate Veera Desai Road Near Veera Desai Police Station Andheri (W) Mumbai [PAN: AACPD7043G]	Vs	Income Tax Officer, Ward-(9)(3)(1), Mumbai
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अपीलार्थी/ (Appellant)		प्रत्त्यर्थी/ (Respondent)
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Assessee by :	Shri Rajesh Shah
Revenue by :	Shri R.M.Brindha, Addl. JCIT

सुनवाई की तारीख/Date of Hearing : 25.09.2024
घोषणा की तारीख /Date of Pronouncement: 27.09.2024

आदेश/O R D E R

PER NARENDRA KUMAR BILLAIYA, AM

This appeal by the assessee is preferred against the order dated 27/09/2023 by NFAC, Delhi pertaining to A.Y.2010-11.

2. The challenge of the assessee is twofold firstly, assessee has challenged the reopening of the assessment and secondly, the assessee

has challenged the addition of Rs.40,00,000/- in respect of loans taken and treated as not genuine.

3. Briefly stated the facts of the case are that the assessee electronically filed its return of income on 20/09/2010 declaring total income at Rs.6,65,578/-. The return was processed u/s.143(1) of the Act but subsequently, reopened by issue of notice u/s.148 of the Act.

4. The basis for reopening the assessment was the information received from the office of Director of Income Tax (Investigation)-Mumbai who informed that a search and seizure action has been conducted in the case of Praveen Kumar Jain group which revealed that Praveen Kumar Jain group is a leading provider of accommodation entry through benami concerns operated by them. Since the assessee was one of the beneficiaries of such accommodation entries, the assessment was reopened by issue of notice u/s.148 of the Act. The allegation on the assessee was that it has received accommodation entries from (i) Ansh Merchandise Pvt. Ltd (New Planet Trading Co. Pvt. Ltd.) PAN AABCN8176E amount Rs.20,00,000/- (ii) Olive Overseas Pvt. Ltd. (Realgold Trading Co Pvt. Ltd.) PAN AACCR4512K amount Rs.20,00,000/-.

5. The assessee was asked to prove the genuineness of the impugned loan transactions. The assessee furnished necessary details with supporting documentary evidences which were dismissed by the AO who was of the firm belief that since Praveen Kumar Jain has

admitted that he has been providing accommodation entries, therefore, the alleged loans are bogus loans. The AO made an addition of Rs.40,00,000/-. Assessee carried the matter before the CIT(A), but without any success.

6. Before us, the Counsel for the assessee vehemently stated that the assessee has successfully discharged the initial onus cast upon it by the provisions of Section 68 of the Act and the AO has brought nothing on record to show that the assessee has taken bogus loans. It is the say of the Counsel that the only reason for making the impugned addition is that no one responded from the companies in respect of the summons issued u/s.131 of the Act by the AO. The counsel drew our attention to the various documents filed in the paper book in support of the contention that the assessee has successfully discharged the onus cast upon it by the provisions of Section 68 of the Act.

7. Per contra, the DR strongly supported the findings of the AO and read the operative part.

8. We have carefully considered the orders of the authorities below and have given a thoughtful consideration to the relevant documentary evidences brought on record in the light of Rule 18(6) of the ITAT Rules. A perusal of the bank statement of Ansh Merchandise Pvt. Ltd (New Planet Trading Co. Pvt. Ltd.) which is placed at pages 51-54 of the paper book, we find that there is a clear debit entry in the name of the assessee from the said company. A thoughtful look at the

bank statement show that there are transactions of debit and credit in Crores and there is no adverse inference drawn by the AO in respect of other transactions but only transaction of the assessee has been singled out as bogus. Similarly, the loan taken from Olive Overseas Pvt. Ltd., is duly reflected in the bank statement exhibited at pages 85-87 of the paper book and there is a clear debit of Rs.20,00,000/- in the name of the assessee through RTGS transaction. Once again there are debits and credits of Crores and no adverse inference has been drawn in respect of other transactions. In the affidavit filed by the Director of Ansh Merchandise Pvt. Ltd, it has been categorically stated that the company has received back the loan amount of Rs.20,00,000/- from the assessee on 04/12/2013 from ICICI Bank Ltd, Andheri (W), Mumbai. Similarly in the case of Olive Overseas Pvt. Ltd., the Director of the company has categorically stated that the company has received back the loan amount of Rs.20,00,000/- from the assessee on 04/12/2013. We have also gone through the financial statements of the lenders and we find that both the lenders have capacity to lend the impugned loans to the assessee. In our considered opinion considering the facts on record, we are of the considered view that the assessee has successfully discharged the initial burden cast upon it by the provisions of Section 68 of the Act and since the assessee has established identity, genuineness of the transaction and capacity of the lender, we do not find any merit in the impugned additions, the AO is directed to delete the same.

9. Before parting, the DR has placed reliance on the decision of the Co-ordinate Bench in the case of Praveen Kumar Jain in ITA No. 7191/Mum/2018 and others; we find that the said decision of the Co-ordinate Bench is not of much relevance on the facts of the case in hand.

10. Since the additions have been deleted by us, the challenge to the reopening of the assessment is left open.

11. Appeal of the assessee is allowed.

Order pronounced in the Court on 27th September, 2024 at Mumbai.

Sd/-
(SUNIL KUMAR SINGH)
JUDICIAL MEMBER

Sd/-
(NARENDRA KUMAR BILLAIYA)
ACCOUNTANT MEMBER

Mumbai, Dated: 27/09/2024
Karuna, Sr. Ps.

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आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)-
5. विभागीयप्रतिनिधि , आयकरअपीलीयअधिकरण, मुंबई/DR,ITAT, Mumbai,
6. गार्ड फाई/Guard file.

आदेशानुसार/ BY ORDER,
TRUE COPY

Assistant Registrar
आयकर अपीलीय अधिकरण
ITAT, Mumbai