

**आयकर अपीलीय अधिकरण, कोलकाता पीठ 'बी', कोलकाता**  
**IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH KOLKATA**

**Before Shri Sanjay Garg, Judicial Member and Shri Sanjay Awasthi, Accountant Member**

**I.T.A. No.1030/Kol/2024**  
**Assessment Year: 2015-16**

**Retain Tie Up Pvt. Ltd.....Appellant**  
**42/1, BB Ganguly Street,**  
**Kolkata – 700012.**  
**[PAN: AAFCR1153D]**

**vs.**

**ACIT, Ward-1(3), Kolkata..... Respondent**

**Appearances by:**

None appeared on behalf of the appellant.

Shri A. Kundu, CIT-DR, appeared on behalf of the Respondent.

Date of concluding the hearing : September 26, 2024

Date of pronouncing the order : September 26, 2024

**आदेश / ORDER**

**संजय गर्ग, न्यायिक सदस्य द्वारा / Per Sanjay Garg, Judicial Member:**

The present appeal has been preferred by the assessee against the order dated 22.03.2024 of the National Faceless Appeal Centre [hereinafter referred to as 'CIT(A)'] passed u/s 250 of the Income Tax Act (hereinafter referred to as the 'Act').

2. No one has put in appearance on behalf of the assessee despite notice, therefore, we proceed to decide the appeal after hearing the ld. DR and perusing the materials available on record.

3. The assessee in this appeal has taken the following grounds of appeal:

*"1. On facts and circumstances of the case, the learned CIT(A) has grossly erred in not at all considering the written submissions as uploaded by the appellant Company and thereby by passing a non-speaking order, without even discussing the merits of the case and*

hence, the impugned order is absolutely erroneous, illegal and bad-in-law, requiring outright annulment.

2. On facts and circumstances of the case and in law, the learned CIT(A) has grossly erred in confirming the addition of Rs. 1,00,00,000/- as made by the learned ITO u/s. 69 of the Act alleging that the appellant company has failed to explain the source of fresh investment made, in the year under consideration, in shares & securities, without appreciating -

- That it is evident from the audited annual accounts itself, that there is no fresh investment in the current year and it is only the earlier years investment which have been carried forward in the current year, and

- That the system picked up the scrutiny for verification of fresh investment only for the reason that in the earlier year, the said investment was reflected in the ITR under the head 'Current Assets' whereas in the current year, the same investment was reflected in the ITR under the head 'Non - Current Investment' and thus, only due to difference in grouping in the ITR, the system showed new investment, which is not the fact at all.

Hence, the impugned addition u/s. 69 alleging unexplained investment in the year under consideration needs to be deleted outrightly as being absolutely erroneous, illegal and bad-in-law.

3. On facts and circumstances of the case and in law, the learned CIT(A) has grossly erred in confirming the disallowance of Rs. 50,000/- as made by the learned ITO u/s. 14A of the Act without appreciating that since the appellant company has not earned any exempt income in the year under consideration, the provisions of section 14A are not at all applicable.

Hence, the impugned disallowance of Rs. 50,000/- as made during the year under consideration also needs to be deleted as being absolutely erroneous, illegal and bad- in-law.

4. The appellant company craves leave to add, amend, alter, substitute. Modify in any or all the above grounds of appeal, if necessary, on the basis of submissions to be made at the time of personal hearing.”

4. **Ground Nos.1 & 2** – The sole issue raised through these grounds of appeal is relating to the addition made/confirmed by the lower authorities of Rs.1,00,00,000/- u/s 69 of the Act.

5. The Assessing Officer during the assessment proceedings noted that there were cash investments of Rs.1,00,00,000/- made by the

assessee during the year under consideration. On being asked to explain the source of the said investments, there were no response from the assessee. The Assessing Officer, under the circumstances, passed best judgment assessment u/s 144 of the Act and added the said new investments of Rs.1,00,00,000/- as income of the assessee from unexplained sources.

6. Being aggrieved, the assessee preferred appeal before the CIT(A). Before the ld. CIT(A), the assessee made detailed submissions that there were no new investments made by the assessee during the year. That the alleged investment of Rs.1,00,00,000/- was the old investment, which was carried forward during the year under consideration. The assessee also demonstrated through the various columns of the return of income that in the earlier years, the said investment was shown, due to some inadvertence, under a wrong head, and that the same was carried forward from the earlier year. However, the ld. CIT(A) ignored the aforesaid contentions of the assessee and simply upheld the additions, so made by the Assessing Officer.

7. We have gone through the record and have also considered the submissions made by the ld. DR. After considering the records, there seems merit in the contentions raised by the assessee. The lower authorities have failed to properly examine the issue especially the submissions of the assessee that no new investment was made during the year under consideration. The matter is restored to the file of the Assessing Officer to examine the records, ITR of the assessee for the year under consideration and of the earlier years and give an opportunity to the assessee to present its case and thereafter pass a speaking order in accordance with law on this issue.

8. **Ground No.3** - Vide Ground No.3, the assessee has agitated against the confirmation of addition of Rs.50,000/- made by the

Assessing Officer u/s 14A of the Act in respect of disallowance of expenditure incurred for earning of tax exempt income.

9. The assessee in the written submission has submitted that no exempt income was earned by the assessee during the assessment year under consideration, therefore, the aforesaid disallowance made by the Assessing Officer was not warranted. The ld. CIT(A) has also not considered the submissions of the assessee.

10. This issue is accordingly restored to the file of the Assessing Officer to examine the records/submissions of the assessee and thereafter pass a speaking order on this issue also.

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

***Kolkata, the 26<sup>th</sup> September, 2024.***

Sd/-

**[Sanjay Awasthi]**

लेखा सदस्य/Accountant Member

Sd/-

**[Sanjay Garg]**

न्यायिक सदस्य/Judicial Member

Dated: 26.09.2024.

RS

*Copy of the order forwarded to:*

1. Retain Tie Up Pvt. Ltd
2. ACIT, Ward-1(3), Kolkata
3. CIT (A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches