

**THE INCOME TAX APPELLATE TRIBUNAL,
'C' BENCH, KOLKATA**

**Before Shri Rajpal Yadav, Vice-President (KZ)
&
Shri Rajesh Kumar, Accountant Member**

**I.T.A. No. 1079/KOL/2024
Assessment Year: 2021-2022**

***Bhawani Apartment Pvt. Limited,.....Appellant
4/2, Agrasain Street, Liluah,
Howrah-711204, West Bengal
[PAN:AAECB4525A]***

-Vs.-

***Deputy Commissioner/Assistant Commissioner of
Income Tax,.....Respondent
Circle-3(2), Kolkata,
110, Shanti Pally, E.M. Bypass,
Kolkata-700107***

Appearances by:

*Shri Miraj D. Shah, A.R., appeared on behalf of the
assessee*

*Shri Rakesh Kumar Das, CIT (D.R.), appeared on behalf
of the Revenue*

Date of concluding the hearing: August 13, 2024

Date of pronouncing the order: October 07, 2024

O R D E R

Per Rajpal Yadav, Vice-President (KZ):-

The present appeal is directed at the instance of assessee against the order of Id. Commissioner of Income Tax (Appeals),

Kolkata-21 dated 29th March, 2024 passed for Assessment Year 2021-22.

2. Though the assessee has taken three grounds of appeal, but Grounds No. 2 and 3 are general grounds, which do not call for recording of any specific finding.

3. In Ground No. 1, the assessee has pleaded that the ld. CIT(Appeals) has erred in confirming the additions of Rs.8,00,000/- and Rs.6,05,000/- which alleged to have been made on the basis of certain documents emanated during the course of survey conducted at Lakhotia Diagnostic Centre.

4. Brief facts of the case are that the assessee has filed its return of income on 28.02.2022 declaring total income of Rs.2,16,920/-. A search & seizure and survey operation was carried out at the residential and Office premises of Health Care Group on 05.02.2021. According to the ld. Assessing Officer, during the course of search & seizure and survey operation, documents referring to Bhawani Apartment Private Limited were found. The ld. Assessing Officer thereafter made a reference about the notice issued by him. His discussion for making the addition is only in one paragraph, which we note as under:-

“4. Addition:-

During the course of survey operation at the office premises of Lakhotia Diagnostic Service Pvt. Ltd. at 4/2, Agrasain Street, Howrah on 05.02.2021, documents bearing BS-3/LDS/6 was impounded and on perusal it is found that page no. 44 of the said impounded documents reveals that M/s. Bhawani Apartment Pvt. Ltd has received Rs. 8 lakhs in each coded as “PINK” from Chandan Charchit Patra and payment of

Rs.50,00,000/- is yet to be received from Suprabha Chaudhary. Similarly soft data from LDS-HD-3, receipt of Rs.20 lakhs cash from Deepak Rout against Raghunathpur-II Project of the company and in Sainik School Project Rs.6,05,000/- was received from Jairam Nayak”.

In this connection, assessee was show cause as to why the amount of Rs.84,05,000/- as stated above should not be considered as his undisclosed income and why the same shall not be added to his total income for the year under consideration.

The reply submitted by assessee in response to the show cause notice has been sent but the same is found to be not satisfactory.

In view of above, the amount of Rs.84,05,000/- is added to the total income of assessee as his undisclosed business income.

Addition: Rs.84,05,000/-“.

5. On appeal, ld. CIT(Appeals) has deleted the addition of Rs.50,00,000/- as well as of Rs.20,00,000/-. It sustained the addition of Rs.8,00,000/- and Rs.6,05,000/-. The relevant finding of the ld. CIT(Appeals) reads as under:-

“In respect of the other allegations, the receipt of cash of Rs. 20 lakhs on account of Raghunathpur-II project of the company from Deepak Rout, Rs. 8 Lakhs from Chandan Charchit Patra and Rs.6.05 Lakhs from Jairam Nayak, the contention of the appellant that no such transactions were made by him with these persons in cash cannot be accepted as these documents pertaining to cash transactions were recovered during search from the premises of Lakhotia Diagnostic Services Pvt Ltd, a group concern of the Lakhotia/Health Care Group to which the appellant belongs. The appellant has not been able to substantiate that such cash was not received by him. However, I find that in respect of the cash received from Deepak Kumar Rout vide LDS-HD-3, it is observed that the date of transaction in such soft data has been mentioned as 24.03.2018 which pertains to A.Y: 2018-19 and therefore addition in this regard cannot be made in the hands of the appellant for A.Y: 2021-22. This addition of Rs. 20 Lakhs in respect of Deepak Kumar Rout

*therefore stands deleted. The AO however may take necessary action to bring such cash receipt of Rs. 20 lakhs in respect of Deepak Rout to tax for the A.Y: 2018-19, if deemed fit. The action of the AO in making addition towards other cash receipts of Rs. 8 Lakhs from Chandan Charchit Patra and Rs.6.05 Lakhs from Jairam Nayak as undisclosed business income stands confirmed.
The ground is therefore partly allowed”.*

6. With the assistance of Id. Representatives, we have gone through the record carefully. The Id. CIT(Appeals) has reproduced the alleged seized papers on page no. 11 of the impugned order. But the perusal of the above page could not goad any adjudicating authority to arrive at any logical end. The Id. Assessing Officer did not make any effort to enquire about corroborative evidence for making these additions. There is no head and tail in the assessment order as to how and why Id. Assessing Officer is making the addition. He has drawn an inference on certain imagination without any logical conclusion. Similarly, Id. CIT(Appeals) has not recorded any finding *qua* both the items as to how it assumed that the assessee has received these amounts in cash. The stand of the assessee on the other hand was that Rs.6,05,000/- was alleged to be received from Sainik School Project, but this transaction was not connected with the assessee. Similarly other reference was on account of some rough noting for the purpose of other transactions. The Id. Assessing Officer has not referred any corroborative evidence demonstrating as to how the deals with those persons was finalized by the assessee or not. Therefore, we are of the view that both these additions are not sustainable. Accordingly, the appeal of the assessee is allowed and both the additions are deleted.

7. In the result, the appeal of the assessee is allowed.

Order pronounced in the open Court on 07/10/2024.

Sd/-

(Rajesh Kumar)
Accountant Member

Sd/-

(Rajpal Yadav)
Vice-President (KZ)

Kolkata, the 7th day of October, 2024

*Copies to :(1) Bhawani Apartment Pvt. Limited,
4/2, Agrasain Street, Liluah,
Howrah-711204, West Bengal*

*(2) Deputy Commissioner/Assistant
Commissioner of Income Tax,
Circle-3(2), Kolkata,
110, Shanti Pally, E.M. Bypass,
Kolkata-700107*

*(3) Commissioner of Income Tax (Appeals),
Kolkata-21;*

(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.