

आयकर अपीलीय अधिकरण न्यायपीठ, कोलकाता ।
IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH, KOLKATA

BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER
&
DR. MANISH BORAD, ACCOUNTANT MEMBER

I.T.A. No. 36/KOL/2024
Assessment Year: 2011-12

Rosemerry Vinimay Pvt. Ltd. Flat No. 303, 3 rd Floor, Jeevan Apartments, Rajiv Nagar, Chattisgarh-492001 PAN No. AADCR2184A	Vs	ITO, Wad 11(1), Aaykar Bhavan, P-7, Chowringhee Square, Kolkata-700069
अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)

Assessee by :	Shri Miraj D. Shah, AR
Revenue by :	Shri Rajat Mitra, CIT DR

सुनवाई की तारीख/**Date of Hearing** : 14.08.2024
घोषणा की तारीख/**Date of Pronouncement** : 04.10.2024

आदेश/O R D E R

PER DR. MANISH BORAD, ACCOUNTANT MEMBER:

The captioned appeal filed by the assessee for A.Y. 2011-12, is directed against the order passed by the National Faceless Appeal Centre, Delhi (hereinafter referred to as the 'Id. CIT(A)') dated 7th November, 2023 which is arising out of the assessment order passed u/s 144 read with section 147 of the Income-tax Act, 1961 (the Act) dated 20th November, 2018.

2. At the outset, the Id. Counsel for the assessee submitted that the assessee did not get fair opportunity to appear before Id. CIT (A) and therefore, prayed that the matter may be restored to the file of the Id. CIT (A) for necessary adjudication of the issue raised in

the grounds of appeal attached to form 36 and also prayed that permission may be granted to file additional evidence before Id. CIT (A) in support of his grounds.

3. On the other hand, though, the Id. DR supported the orders of the Id. lower authorities but did not oppose to the request of the assessee for restoring the matter to the file of the Id. CIT (A).

4. We have heard the rival contentions and perused the orders available on record. We find that the assessee is a private limited and is a investment company. Income of ₹5810 filed u/s 139(1) of the Act for A.Y. 2011-12, which was duly processed u/s 143(1) of the Act. Thereafter based on the information received on account of search carried out u/s 132 of the Act on 3rd January, 2018 in case of Super Sonic & Jhunjhunwala Group. The assessee alleged to be beneficiary of accommodation entry amounting to ₹6,49,39,000/-. Based on this information notice u/s 148 of the Act was issued followed by validly serving the other statutory notices. However, even after repeated directions assessee failed to furnish any document/ information to Id. AO, in response to the information called in the questionnaire attached to the notice u/s 142(1) of the Act. The Id. AO thus framed best judgement assessment u/s 144 of the Act making the addition for unexplained cash credit u/s 68 of the Act and income assessed at ₹6,49,39,000/-.

5. Further, when the matter travelled before the Id. CIT (A), the assessee after filing the appeal failed to appear on the date of hearing fixed by Id. CIT (A) on 9th February, 2021, 25th April, 2023, 11th September, 2023, 9th October, 2023 and 19th October 2023. The Id. CIT (A) was thus, left with no option except to confirm the order of the Id. AO because no details were filed by the assessee before the Id. AO as well as before Id. CIT (A) and thus, the Id. CIT



(A) confirmed the impugned addition observing that the assessee has not explained the source of cash credit of ₹6,49,39,000/-. Before us, the ld. Counsel for the assessee has humbly prayed that for unavoidable reasons the assessee /ld. Authorized Representative could not appear on the dates of hearing and in the interest of justice requested for providing one more opportunity to go before the ld. CIT (A).

6. We on considering the facts and also taking a liberal view find it justified to restore all the issues raised in the instant appeal to the file of the ld. CIT (A) for necessary adjudication for which assessee will be at liberty to file all additional evidences and other submissions if deemed appropriate so that the ld. CIT (A) can frame a speaking order on the issue raised in the instant appeal. Needless, to mention that proper opportunity of being heard to be provided to the assessee and that the assessee should not seek any adjournments unless otherwise required for reasonable cause. Grounds of appeal raised by assessee are allowed for statistical purposes.

7. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the Court on 04th October, 2024 at Kolkata.

Sd/-(SANJAY GARG)
JUDICIAL MEMBER

Sd/-(DR. MANISH BORAD)
ACCOUNTANT MEMBER

Kolkata, Dated 04th OCTOBER, 2024

**SS, Sr.Ps*



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. विभागीय प्रतिनिधि, अधिकरण अपीलीय आयकर , कोलकाता/DR,ITAT, Kolkata,
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,

Assistant Registrar
आयकर अपीलीय अधिकरण
ITAT, Kolkata