

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'A' Bench, Hyderabad

Before Shri Laliet Kumar, Judicial Member
And
Shri Manjunatha, G. Accountant Member

आ.अपी.सं / **ITA No. 499/Hyd/2022**
(निर्धारण वर्ष / Assessment Year: 2013-14)

Dy. CIT Circle 2(1) Hyderabad	Vs.	Gireesh Infrastructure Private Limited Hyderabad PAN: AADCG3003H
(Appellant)		(Respondent)
राजस्व द्वारा/Revenue by:	Shri Ashish Kumar Shukla, DR	
निर्धारिती द्वारा/Assessee by:	Shri P Murali Mohan Rao, CA	
सुनवाई की तारीख/Date of hearing:	15/10/2024	
घोषणा की तारीख/Pronouncement:	15/10/2024	

आदेश/ORDER

Per Laliet Kumar, J.M

This appeal filed by the Revenue is directed against the order dated 25/03/2022 of the learned CIT (A)-NFAC Delhi, relating to A.Y.2013-14.

2. The brief facts of the case are that the assessee company is engaged in the business of public transport services and transport infrastructure development in the East of India.

The assessee filed its return of income for the A.Y 2013-14 on 30/09/2013 declaring total loss of Rs.4,53,91,437/-. The case was selected for scrutiny and during the course of assessment proceedings, the Assessing Officer noticed that in the financial year 2013-14, the assessee received unsecured loan from Vartha Broadcasting Ltd, Spoorthy Marketing (P) Ltd and Gaurav Sanghi. The Assessing Officer called upon the assessee to file necessary evidences and in response, the appellant submitted confirmation letter, income tax return copies, bank account statement and annual report of the loan creditors. The Assessing Officer after considering the relevant evidences filed by the assessee observed that although the appellant has established identity of the creditors, but failed to prove creditworthiness of creditors and also there are few cash deposits into bank account of the creditors immediately before the date of transfer of funds to the appellant. Therefore, opined that the assessee could not substantiate its explanation about the nature and source of credits and thus, made addition of Rs.3,81,71,598/- u/s 68 of the I.T. Act, 1961.

3. Being aggrieved by the assessment order, the assessee preferred an appeal before the learned CIT (A). Before the learned CIT (A) the assessee has filed relevant evidences including those evidences filed before the Assessing Officer to prove identify, genuineness of the transaction and creditworthiness of the parties. The appellant has also explained transaction in light of ledger account and argued that these are current account

transactions between group companies and all transactions are routed through proper banking channels. The learned CIT (A) after considering the relevant submissions of the assessee and also taken note of certain judicial precedents including the decision of the Hon'ble Supreme Court in the case of Lovely Exports Ltd (2008) 216 CTR 195 held that the appellant is able to establish identity of the creditors, genuineness of the transactions and creditworthiness of the parties which is evident from the evidences filed by the assessee including confirmation from the creditors, their income tax return copies, copies of bank statements and financial statements. Therefore, directed the Assessing Officer to delete the additions made towards unsecured loans u/s 68 of the I.T. Act, 1961.

4. Aggrieved by the order of the learned CIT (A), the Revenue is in appeal before the Tribunal.

5. The learned DR submitted that the learned CIT (A) erred in deleting the addition of Rs.3,81,71,598/- made u/s 68 of the I.T. Act, 1961, though the genuineness of the transactions and creditworthiness of the creditors were not proved. The learned DR further submitted that the Assessing Officer has brought out clear fact to the fact that in few accounts, there are cash deposits immediately before the date of payment to the appellant company and from the above, it is undisputed fact that the appellant could not establish creditworthiness of the creditors. The learned CIT (A)

without appreciating relevant facts simply deleted the addition made by the Assessing Officer. Therefore, he submitted that the order of the learned CIT (A) should be set aside and the additions made by the Assessing Officer should be upheld.

6. The Counsel for the assessee, on the other hand, referring to all the 3 parties submitted that all parties are group entities of the appellant. The appellant has filed confirmation letters along with ITR copies, bank statement and financial statements. All transactions are routed through bank accounts. Although the Assessing Officer observed that there are cash transactions in the bank account of the creditors but those cash transactions are explained in their books of account. Once the assessee proves the identity of the creditors and also establish genuineness of the transactions and creditworthiness of the parties, then there is no scope for the Assessing Officer to treat the said loan as unexplained cash credit u/s 68 of the I.T. Act, 1961. The learned CIT (A) after considering relevant facts has rightly deleted the additions made by the Assessing Officer and therefore, the order of the learned CIT (A) should be upheld.

7. We have heard both the parties, perused the material available on record and gone through the orders of the authorities below. The appellant has received loans and advances of Rs.3,46,83,598/- from Vartha Broadcasting Ltd. Vartha Broadcasting Ltd is a group entity of the appellant company and

it is assessed to income tax regularly. As per the financial statement of Vartha Broadcasting Ltd, loans given to the appellant is disclosed in their financial statements. Further, these are current account transactions between group entities and all transactions are routed through proper banking channels. The appellant has also filed confirmation letters from the creditors where they have confirmed transactions. Therefore, in our considered view the appellant has discharged onus cast upon it u/s 68 of the I.T. Act, 1961 and proved the identity of the creditors and also established genuineness of the transactions and creditworthiness of the creditors. Although, the Assessing Officer refers to the cash transactions in the bank account of the creditors, but there is no evidence as to what is the amount of cash transaction in the bank account of the creditors. On the other hand, the appellant has filed all evidences and as per the said evidences, creditors are having sufficient source of income to explain the transactions with the appellant. Therefore, we are of the considered view that once the transactions with other companies is explained with relevant evidences, then there is no scope for the Assessing Officer to treat the said loan transactions as unexplained cash credit u/s 68 of the I.T. Act, 1961. This legal principle is supported by the decision of the Hon'ble Supreme Court in the case of *Lovely Exports Ltd vs. CIT* (Supra) and also in the case of *CIT vs. Orissa Corporation Pvt Ltd* (1986) 159 ITR 78 (S.C). We further note that the appellant has also explained the source of source in respect of loans received from 3 parties and as

per the details filed by the assessee, there is enough source of income for the creditors to explain the amounts given to the appellant company which is evident from the transactions with the appellant company which are all routed through proper bank accounts only.

8. In so far as the loans received from Spoorthy Marketing (P) Ltd is concerned, the appellant has filed all the details including ledger account and as per the ledger account of the appellant, these are current account transactions between 2 group companies where there are debits and credits during the same financial year. Further, during the financial year under consideration, the appellant has received Rs.34,88,000/- and also repaid Rs.2,87,77,182/- to Spoorthy Marketing (P) Ltd. From the above, it is undisputedly clear that these are normal current account transactions between 2 group entities and thus, same cannot be considered as unexplained cash credit u/s 68 of the I.T. Act, 1961.

9. Similarly, with regard to loan received from Shri Gaurav Sanghi amounting to Rs.9,34,000/-, the appellant has filed all details including confirmation from the creditors. Mr. Gaurav Sanghi is the director of the appellant company and other 2 companies. He has filed his ITR and also disclosed loan given to the appellant company. From the details filed by the assessee, it appears that the appellant is able to establish identity of the

creditors and also proved genuineness of the transactions and creditworthiness of the creditors. Therefore, we are of the considered view that the Assessing Officer is completely erred in making addition towards loans received from group entities as unexplained cash credits u/s 68 of the I.T. Act, 1961. The learned CIT (A) after considering the relevant facts has rightly deleted the additions made by the Assessing Officer. Thus, we are inclined to upheld the order of the learned CIT (A) and dismiss the appeal of the Revenue.

10. In the result, appeal filed by the Revenue is dismissed.

Order pronounced in the Open Court on 15th October, 2024.

Sd/- (MANJUNATHA, G.) ACCOUNTANT MEMBER	Sd/- (LALIET KUMAR) JUDICIAL MEMBER
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Hyderabad, dated 15th October, 2024

Vinodan/sps

Copy to:

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3	Pr. CIT – Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order