

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH: 'B' NEW DELHI**

**BEFORE SH. PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER  
AND  
SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER**

**I.T.A. No. 2879/DEL/2023 (A.Y 2017-18)**

Firefox Bikes Pvt. Ltd. 2A 1001, 10 <sup>th</sup> floor, Two Horizon Centre, Sector 43 DLF Phase V, Gurgaon, Haryana  <b>PAN No. AABCL0338G</b>  <b>(APPELLANT)</b>	Vs.	DCIT Circle 9(1) New Delhi  <b>(RESPONDENT)</b>
--	-----	---

<b>Assessee by :</b>	<b>Sh. Sumit Kumar Bansal, CA</b>
<b>Department by:</b>	<b>Sh. B. K. Singh, Sr. DR</b>

<b>Date of Hearing</b>	<b>01.10.2024</b>
<b>Date of Pronouncement</b>	<b>10.10.2024</b>

**ORDER**

**PER YOGESH KUMAR U.S., JM**

This appeal is filed by the Assessee for the Assessment Year 2017-18 against the order of the CIT(A)/National Faceless Appeal Centre ('NFAC' for short), dated 17/08/2023.

2. The grounds of Appeal are as under: -

*“ 1. That the Ld. CIT(A), NFAC Delhi has erred in facts and in law confirming the addition made by the Ld. A.O. u/s 68 and computing the tax payable u/s 115BBEE on a sum of Rs. 2080821/-, which includes the opening balance as on 01/04/2016.”*

3. Brief facts of the case are that, the Assessee filed return of income declaring total income of Rs. 7,30,61,100/-, thereafter the return was revised declaring the total income at Rs. 7,34,80,430/-. Subsequently, the case was selected for complete scrutiny through CASS with the reason ‘purchase shown in the ITR is less than the Invoice Value of Imports shown in the Export Import Data’. Notice u/s 143(2) of the Income Tax Act, 1961 (‘Act’ for short), subsequently notice u/s 142 (1) of the Act were issued to the Assessee. The assessment order came to be passed u/s 143(3) of the Act by computing the income of the Assessee at Rs. 7,63,15,910/-. Aggrieved by the assessment order dated 18/12/2019, the Assessee preferred an appeal before the CIT(A). The Ld. CIT(A) partly allowed the Appeal, however sustained the addition made by the A.O. u/s 68 of the Act read with Section 115BBEE of Rs. 20,80,821/-. As against the order of the CIT(A)

dated 17/08/2023, the Assessee preferred the present Appeal on the grounds mentioned above.

4. The Ld. Counsel for the Assessee submitted that the Ld. CIT(A) erred in fact and also in law in confirming the addition made by the A.O. u/s 68 of the Act and computing the tax payable u/s 115BBEE of the Act of Rs. 20,80,821/- which includes the opening balance as on 01/04/2016. The Ld. Counsel for the Assessee further submitted that the Assessee vide submission dated 29/11/2019 explained the above said fact of including the opening balance as on 01/04/2016 while making the addition for Assessment Year 2017-18 before the A.O. and also before the Ld. CIT(A), but the authorities have not considered the same. The Ld. Counsel relying on various Judgments submitted that while making addition u/s 68 of the Act, it is only the credit entry appearing in the books of accounts of the Assessee for the relevant previous year that can be treated as unexplained cash credit in the absence of proper explanation by the Assessee and the opening balance cannot be added u/s 68 of the Act. The Ld. Counsel thus sought for deletion of the addition.

5. Per contra, the Ld. Departmental Representative by relying on the orders of the Lower Authorities, sought for dismissal of the Appeal.

6. We have heard both the parties and perused the material available on record. The A.O. while making the addition, on perusal of the copy of the suspense account found that the opening balance of Rs. 15,78,761/- which increased to Rs. 27,87,142/- during the year. Out of the said amount only Rs. 7,06,321/- has been adjusted in the next year and the balance amount of Rs. 20,80,821/- remained unexplained. Therefore, the A.O. made the addition u/s 68 of the Act, taxed as per provision of Section 115BBEE of the Act. In the first Appeal, the Ld. CIT(A) while confirming the said addition held as under: -

**“8.2 Decision: -**

*I have perused the assessment order and the grounds of appeal and submissions filed by the Appellant. I find from the assessment order that the opening balance of the sundry account i.e. outstanding debtor account was Rs. 15,78,961/- and closing balance was Rs.27,87,142/- after considering the effects of credits and debits during the current year. It was claimed by the appellant that out of the outstanding debtor balance of Rs.27,87,142/-, an amount of Rs.7,06,321/- have been adjusted in the next year. The*

*nature of this account is explained by the appellant saying that the receipts from customers are parked in this account, which are to be applied against respective bills for which debtors are outstanding. The AO interpreted the transaction as Rs.20,80,821/- (Rs.27,87,142/- (-) Rs.7,06,321/-) as unexplained transaction and hence the added the same to the total income.*

*During the course of appellate proceedings, the appellant submitted that appellant is in the business of sale of Firebox brand of cycles in India and the customers/dealers deposit the money in the account of appellant against the sales (debtors) but till the time customer name is identified i.e. bank transactions vis-a-vis sale transaction, the amounts are parked in sundry account and as soon as the customer is identified, the amount is transferred to concerned debtor(sales) account. The appellant has further submitted that AO has made addition of Rs.20.80 lakhs against the outstanding balance of Rs.27.87 lakhs. However the appellant submitted that the net balance was Rs.6,84,899/- only and out of this, an amount of Rs.2,50,000/- and Rs.98,469/- was explained before AO but not considered by him. Further appellant explained that the balance amount of Rs.3,36,430/- has been offered for taxation in AY 2020-21.*

*I have considered the facts of the case and submission filed by the appellant. I find that as per the ledger account extract of sundry account submitted before the AO, the opening balance was 15.78 lakh and closing balance was 27.87 after considering credits and debits during the current year under consideration. Basically this amount represents the sale proceeds received from the customers/dealers but not identified as sales/income in the current year. Before the AO the appellant had explained that an amount of Rs.7,06,321/- has been adjusted in the next year which was accepted by the AO. However the difference of Rs.20,80 lakhs was treated by the AO as not explained. The appellant now has claimed that net opening balance is Rs. 13,95,922/- after adjusting the*

*debits of Rs.1,92,039/- during the year and against Rs. 13,95,922/- further adjusted Rs.7,06,321/- and arrived at the net balance of Rs.6,84,899/-.Further the appellant has identified the transactions of Rs.2,50,000/- and Rs.98,469/- and the remaining entries of Rs.3,36,430/- have been written back in the books of accounts of the appellant in AY 2020-21. From the submission of the appellant I find that it has not considered the credits of Rs. 13,91,220/- in the current year as appearing in the ledger account submitted before the AO. Further total debits as per the ledger account submitted before AO was Rs. 1,83,039/- whereas total debits claimed by the appellant are at Rs. 1,92,039/-. The appellant has not explained these variations with supporting evidences. Thus the reconciliation submitted by the appellant is not convincing. From the above discussion I find that the amount credited in the above sundry account represents the sale proceeds but the same is not considered as sales in the current year due to non identification of concerned customer/bill. The appellant has not explained as to why these transactions have not been considered as income in the current year and on what basis the same is shown as income in the subsequent years. Though the appellant has tried to explain/adjust the transactions in the subsequent years, it is not clarified as to how the relevant income has been offered to tax in the current year. In view of the above discussion, the addition made by the AO is confirmed and grounds of appeal raised by the appellant are dismissed.”*

7. It is the case of the Assessee that the Ld. CIT(A) while confirming the addition made by the A.O. u/s 68 of the Act of Rs. 20,80,821/- for Assessment Year 2017-18 failed to appreciate that the said addition was included the opening balance as on 01/04/2016. The Ld. Counsel has produced copy of the suspense

account for Financial Year 2016-17 at paper book Page No. 39 to 40 and contended that all the credits during the year are through bank and the authorities have committed error in adding the opening balance u/s 68 of the Act which is not permissible under law. Further it is the case of the Assessee that the Assessee filed written submission explaining the above fact which has not been considered by the authorities.

8. It is well settled law that, while making the addition u/s 68 of the Act, only the credit entry appearing in the books of account of the Assessee for the relevant previous year can be treated as unexplained cash credit in the absence of proper explanation by the Assessee and the opening balance cannot be added u/s 68 of the Act. Therefore, we remand the issue under consideration to the file of the A.O. to examine the credit entry appearing in the books of accounts of the Assessee for the relevant previous year and compute the income of the Assessee, we make it clear that the opening balances cannot be added u/s 68 of the Act while computing the income of the Assessee for the year under consideration.

9. In the result, the Appeal of the Assessee is partly allowed for statistical purpose.

Order pronounced in the open court on 10<sup>th</sup> October, 2024.

**Sd/-**

**( PRADIP KUMAR KEDIA )  
ACCOUNTANT MEMBER**

Dated : 10/10/2024

*R.N, Sr. PS\**

Copy forwarded to :

1. Appellant
2. Respondent
3. CIT
4. CIT (Appeals)
5. DR: ITAT

**Sd/-**

**(YOGESH KUMAR U.S.)  
JUDICIAL MEMBER**

ASSISTANT REGISTRAR  
ITAT NEW DELHI

