

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

Before Shri Sanjay Garg, Judicial Member and Shri Rajesh Kumar, Accountant Member

I.T.A. No.581/Kol/2024
Assessment Year: 2017-18

KOSC Industries Pvt. Ltd. **Appellant**
Suite No. 101, Stephen House,
56E,Hemanta Basu Sarani, Dalhousie,
Kolkata-700001.
(PAN: AAICS8707M)

vs.

ACIT, Circle-4(1), Kolkata **Respondent**

Appearances by:

Shri Miraj D. Shah, AR appeared on behalf of the appellant.

Shri P. P. Barman, Addl. CIT, Sr. DR, appeared on behalf of the Respondent.

Date of concluding the hearing :October 21, 2024

Date of pronouncing the order :October 23, 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 24.01.2024 of the Ld. Commissioner of Income Tax (Appeals), NFAC, Delhi (hereinafter referred to as the "Ld. CIT(A)" passed u/s. 250 of the Income-tax Act, 1961 (hereinafter referred to as the "Act") for Assessment Year (in short 'AY') 2017-18.

2. In this appeal, assessee is aggrieved against the action of the Ld. CIT(A) in sustaining the addition of Rs. 2,18,00,000/- made by the Assessing Officer u/s. 68 of the Act on account of unsecured loan received from loan creditor namely, M/s. Tomorrows Sales Agency Pvt. Ltd. (in short 'TSAPL') by treating the same as income of the assessee from undisclosed sources.

3. The brief facts of the case are that during the assessment proceedings, the AO noticed that the assessee took unsecured loans from various parties. To verify the said loan transactions, the AO issued notices u/s.133(6) to two parties namely, M/s. Kernel Tie Up Pvt. Ltd. (in short 'KTUPL') and M/s. TSAPL. Though, M/s. KTUPL responded to the notice and furnished the requisite details confirming the loan transaction, however, no reply was received from the creditor M/s. TSAPL. Though, the Ld. AO made the addition in respect of loans received from the aforesaid two parties treating the same as not genuine, however, the Ld. CIT(A) deleted the addition in respect of the loan transactions with M/s. KTUPL on the basis of the details, evidences and confirmation furnished by the said concern in response to notice issued to it u/s. 133(6) of the Act. The Ld. CIT(A) confirmed the addition in respect of loans received from M/s. TSAPL as there was no reply received from the said party in response to the notice issued u/s. 133(6) of the Act.

4. Ld. Counsel for the assessee has brought our attention to para 6 of the impugned order of the Ld. CIT(A) and submitted that it was duly explained before the Ld. CIT(A) that when the assessee approached the said concern namely, M/s. TSAPL and enquired as to why they have not given any response to the notice issued by the AO u/s. 133(6) of the Act, the said party informed that they had not received any notice or letter u/s. 133(6) of the Act from the AO and, therefore, there was no response given by the said party to the AO. The Ld. Counsel for the assessee has submitted that the reason for no reply in response to notice u/s. 133(6) of the Act by the said party was not intentional rather due to the reason that the said party did not receive any notice in this respect from the AO. The Ld. Counsel has further submitted that the assessee had duly furnished all the requisite details and documents before the AO to prove the identity and creditworthiness of

the creditor and the genuineness of the transaction. He has further submitted that in the interest of justice the matter may be restored to the file of the AO to verify the aforesaid transaction with M/s. TSAPL.

The Ld. DR has not objected to the same. In view of this, impugned order of the Ld. CIT(A) is set aside and the matter is restored to the file of the AO for the limited purpose to verify the genuineness of the loan transaction of the assessee with M/s. TSAPL. Needless to mention here that the assessee will promptly participate in the assessment proceedings and furnish all the requisite details as and when call for by the AO. The AO, if so, requires may also call upon the said creditor to furnish necessary details/confirmations etc. in the respect, thereafter, the AO will decide this limited issue in accordance with law. The appeal of the assessee is treated as allowed for statistical purposes.

5. In the result, the appeal of the assessee stands allowed for statistical purposes.

Order is pronounced in the open court on 23.10.2024

Sd/-

[Rajesh Kumar]

लेखा सदस्य/Accountant Member

Sd/-

[Sanjay Garg]

न्यायिक सदस्य/Judicial Member

Dated: 23.10.2024.

JD

Copy of the order forwarded to:

- 1.Appellant –
2. Respondent –
3. CIT(A), NFAC, Delhi
4. Pr. CIT,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches

