

| आयकर अपीलीय अधिकरण न्यायपीठ, मुंबई |
IN THE INCOME TAX APPELLATE TRIBUNAL
"E" BENCH, MUMBAI

BEFORE SHRI NARENDRA KUMAR BILLAIYA, HON'BLE ACCOUNTANT MEMBER
&
SHRI SANDEEP SINGH KARHAIL, HON'BLE JUDICIAL MEMBER

I.T.A. No. 2145/Mum/2024
Assessment Year: 2013-14

ACIT, Circle-23(1), Mumbai	Vs	K. Sevantilal and Co., Mumbai Dwarkanadas Bldg No. 1 74/83, Mangaldas Road Mumbai - 400002 [PAN: AAAPFK3064C]
अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)

Assessee by :	Shri Paresh Shaparia, C.A.
Revenue by :	Shri Suhas Dabade, Sr. D/R

सुनवाई की तारीख/**Date of Hearing** : 21/10/2024
घोषणा की तारीख /**Date of Pronouncement**: 23/10/2024

आदेश/ORDER

PER NARENDRA KUMAR BILLAIYA, AM:

This appeal by the revenue is preferred against the order dated 23/02/2024 passed by NFAC, Delhi pertaining to AY 2013-14.

2. The solitary grievance of the revenue is that the Id. CIT(A) erred in deleting the addition of Rs.2 Crores u/s 69A of the Act and further erred in deleting the disallowance of interest of Rs.3,10,000/-.

3. Representatives of both the sides were heard at length. Case records carefully perused and the relevant documentary evidence brought on record duly considered in light of Rule 18(6) of the ITAT Rules, 1963.

4. Briefly stated the facts of the case are that the assessee is engaged in the business of importing and supplying of pharmaceuticals, chemicals, drugs and vitamins. The assessee filed its return of income on 29/11/2013 declaring total income of Rs. 65,09,520/-. The return was processed u/s 143(1) of the Act and subsequently selected for scrutiny

assessment after recording reasons as per the CBDT Instruction No. 6/2014. Statutory notices were accordingly issued and served upon the assessee.

5. The return was selected for scrutiny assessment on the basis of information received from DDIT (Inv)-II, Mumbai, wherein, the information was received that the assessee was one of the beneficiaries of racket of providing accommodation entry of unsecured loans by the concerns under control of Praveen Kumar Jain. The concerns identified in the report through which the assessee has taken entry were M/s. Olive Overseas P. Ltd. and Nakshatra Business P. Ltd.. The information was that the assessee had done transactions of Rs.1 Crore each with the above two entities in the impugned AY.

6. During the course of assessment proceedings, the AO found that Praveen Kumar Jain himself admitted in his statement recorded u/s 132(4) of the Act that, he acts as a broker in the transactions related to the accommodation entries of the share application money arranged through the bogus concerns run and operated by other entry operators. Basis the statement of Mr. Praveen Kumar Jain, the AO proceeded to examine the account statement of M/s. Olive Overseas P. Ltd. and Nakshatra Business P. Ltd., and asked the assessee to explain why the amounts given are appearing as creditors though the assessee claimed that the same were in nature of inter-corporate deposits.

6.1. It was explained that the inter-corporate loan given to M/s. Olive Overseas P. Ltd., has been received in FY 2012-13. Similarly, inter-corporate loan given to Nakshatra Business P. Ltd., has also been

received in FY 2012-13. The assessee furnished complete details of the transactions.

6.1.1. The AO was of the firm belief that since the names of the two companies M/s. Olive Overseas P. Ltd. and Nakshatra Business P. Ltd., appear in the list prepared by the Investigation wing, based on searches and enquiries conducted by them, in respect of the companies controlled and operated by Praveen Kumar Jain and group, came to the conclusion that the payment of Rs. 2 Crores by the assessee to *hawala* operators in lieu of so called cheques received by the assessee from *hawala* operators is unexplained income of the assessee u/s 69A of the Act and accordingly made the addition of Rs.2 Crores.

6.2. Proceeding further the AO was of the opinion that the assessee has not shown any interest income on the amount given to the impugned two *hawala* operators and accordingly computed the interest @ 12% making addition of Rs.3,10,000/-.

7. The assessee agitated the matter before the Id. CIT(A) and was successfull in convincing that the impugned transaction is genuine and no addition is called for.

8. Before us, the Id. D/R strongly supported the findings of the AO. Per Contra, the Id. Counsel for the assessee reiterated what has been stated before the lower authorities.

9. We have given a thoughtful consideration to the orders of the authorities below. At the very outset, we have no hesitation to say that the AO has proceeded on completely wrong appreciation of facts. The facts which are coming out from the documentary evidence show that the assessee had given loans to M/s. Olive Overseas P. Ltd. and

Nakshatra Business P. Ltd., of Rs. 1 Crore each. Rs. 1 Crore was given to M/s. Olive Overseas P. Ltd. on 24/03/2012 which is apparent from the bank statement of Axis Bank at page 89 of the paper book which falls in AY 2011-12 relevant to AY 2012-13. Rs. 1 Crore was the opening credit balance in the books of M/s. Olive Overseas P. Ltd., as a liability towards the assessee and during the year under consideration, the assessee received back the loan given in earlier year of Rs. 50,00,000/- on 11/04/2012, which is reflected in the bank statement of Bharat Co-operative Bank (Mumbai) Ltd., at page 90 of the paper book and Rs.20,00,000/- on 11/04/2012 from Axis Bank at page 91 of the paper book and Rs.30,00,000/- on 12/04/2012 again from Axis Bank at page 92 of the paper book.

9.1. Similarly, the assessee had given loan to Nakshatra Business P. Ltd., on 24/03/2012 which is reflected in the Bank statement of Axis Bank at page 140 of the paper book. Nakshatra Business P. Ltd., repaid the loan in tranches. Rs.25,00,000/- on 13/04/2012 evident from page 164 of the paper book, Rs.20,00,000/- on 18/04/2012 evident from page 165 of the paper book, Rs. 30,00,000/- on 24/04/2012 and Rs.15,00,000/- on 26/04/2012, evident from page 166 of the paper book and Rs.30,00,000/- on 05/05/2012, evident from page 167 of the paper book.

10. The aforestated undisputed facts show that what the assessee has received during the year is not accommodation entry but the repayment of loans given by it in earlier FYs. Therefore, the entire allegation that the assessee is the beneficiary of accommodation entries from the companies operated and controlled by Praveen Kumar Jain, is not only

baseless but also in contradicting to the facts emanating from the records.

11. To summarize, the issue is very simple. In the previous FYs, the assessee had given loans to M/s. Olive Overseas P. Ltd. and Nakshatra Business P. Ltd., of Rs.1 Crore each and during the year under consideration the assessee has received back the loan given by it. Therefore, there is no question of any unexplained income, unaccounted transactions or beneficiary of accommodation entries. The entire addition is without any basis and rightly deleted by the Id. CIT(A) which calls for no interference. The judicial decisions relied upon by the rival parties need no consideration on the facts discussed hereinabove.

12. In the result, appeal of the revenue is dismissed.

Order pronounced in the Court on 23rd October, 2024 at Mumbai.

Sd/-

(SANDEEP SINGH KARHAIL)
JUDICIAL MEMBER

Sd/-

(NARENDRA KUMAR BILLAIYA)
ACCOUNTANT MEMBER

Mumbai, Dated 23/10/2024

SL S/P

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 ,आयकर अपीलीय अधिकरण, मुंबई /DR,ITAT, Mumbai,
6. गार्ड फाई/ Guard file.

आदेशानुसार/ BY ORDER,
TRUE COPY

Assistant Registrar
आयकर अपीलीय अधिकरण
ITAT, Mumbai