

आयकर अपीलीय अधिकरण, हैदराबाद पीठ में
**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "A", HYDERABAD**

BEFORE

**SHRI LALIET KUMAR, JUDICIAL MEMBER
AND
SHRI MADHUSUDAN SAWDIA, ACCOUNTANT MEMBER**

ITA No.880/Hyd/2024		
Assessment Year: 2014-15		
The Deputy Commissioner of Income Tax, Circle – 1(1), Hyderabad.	Vs.	Chnnamaneni Infra Private Limited, Hyderabad. PAN : AA ECC2707P
(Appellant)		(Respondent)
Assessee by:	Shri T. Rajendra Prasad, C.A.	
Revenue by:	Shri Y. Srikanth Reddy, Sr.AR	
Date of hearing:	07.11.2024	
Date of pronouncement:	12.11.2024	

ORDER

PER LALIET KUMAR, J.M.

This appeal is filed by the Revenue, feeling aggrieved by the order passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 09.07.2024 for the AY 2014-15.

2. The grounds raised by the Revenue reads as under :

“1. The Id CIT(A) erred both in law and on facts in granting relief to the assessee on the basis of the submissions made by the assessee.

2. The Id CIT(A) erred in not granting opportunity to the Assessing officer to examine the additional evidence submitted by the assessee during the course of appeal proceedings and in not calling for remand report under Rule 46A of the I.T.Rules 1962.

3. The Id CIT(A) erred in facts in granting relief of addition made towards "Increase in Advances" amounting to Rs.3,50,57,867/- considering that the names of the customers, PAN, Aadhar, addresses and contact details provided by the assessee to the Id CIT(A) during course of appellate proceedings but from the information furnished during course of assessment proceedings, it was found that none of them contain copy of PAN/Aadhar, Bank statements to establish the genuineness and credit worthiness of the parties.

4. The Id CIT(A) erred in granting relief of addition made on account "Unexplained Investment" in purchase of land amounting to Rs.1,42,50,000 and the fact that assessee could not adduce sufficient evidence for source of investment.”

3. The brief facts of the case are that in this case, the Department was in possession of the information that the assessee had invested an amount of Rs.1,42,50,000/- for purchase of immovable property during the Financial Year 2013 – 2014 relevant to the Assessment Year 2014 - 2015. The assessee had filed a return of income for the year under consideration which found to be a ‘defective return’. Hence, Assessing Officer opined that there was an escapement of Assessment for the Financial Year 2013 – 2014 and notice under section 148 of the Income Tax Act 1961 was issued on 06th April 2021. In reply, assessee explained the sources of investment and also filed confirmation letters from

several parties. However, none of them contain copy of PAN / Aadhar and bank statements to establish the genuineness and credit worthiness of the parties and moreover, the assessee received advance in cash from some of the parties. Hence, the Assessing Officer rejected the explanation of the assessee. Finally, the Assessing Officer completed the assessment u/s 147 r.w.s. 144B of the Act interalia making addition of Rs.3,50,57,867/- and Rs.1,42,50,000/-. The Assessing Officer also issued penalty proceedings u/s 271D for violation of provisions of Section 269SS of the Act. Thereafter, passed assessment order on 19.05.2023, assessing the total income of the assessee at Rs.4,93,07,867/-.

4. Aggrieved with such assessment order, assessee filed an appeal before the LD.CIT(A), who granted relief in favour of the assessee.

5. The ld.DR has drawn our attention to page 3 of the assessment order, wherein the AO recorded as under :

“However, the assessee while explaining the sources of the investment for the purchase of the above properties for a consideration of Rs.1,42,50,000 filed confirmation letters from several parties who said to have given advances. It is seen from the confirmation letters that none of them contain copy of PAN / AADHAR, bank statements to establish the genuineness and credit-worthiness of the parties. Further, the advances were also received in cash from some of the parties.”

5.1. The ld.DR further drawn our attention to page 14 of the order of LD.CIT(A) wherein it was held as under :

“In the present case, the facts and circumstances are almost identical to the above-mentioned judicial decisions. As explained above, the amounts considered for addition by AO are the trade advances received against the sale and cannot be considered cash credits U/s 68 of the Act. Even if this is not the case, the appellant has furnished details of advances amounting to Rs. 6,05,51,280/- which is more than the investments of Rs. 1,42,50,000/- made during the year under consideration. The A.O without proper verification and inquiry cannot assume that the investment was made out of the advances received in cash. Further, the A.O did not made any independent inquiry into any transaction based on explanation of the appellant by providing PAN numbers, Aadhar cards, bank statements and addresses.

In view of the above, the addition of Rs. 1,42,50,000/- under Section 68 of the Act is not correct and proper. Therefore, the impugned addition of Rs. 1,42,50,000/- under Section 68 is hereby deleted.”

6. The ld.DR before us contended that the LD.CIT(A) in the proceedings before him, allowed the appeal of the assessee without satisfying himself regarding the creditworthiness, genuineness of the transactions and identity of the creditors from whom an amount of Rs.1,42,50,000/- was taken. It was submitted that there is a violation of the principles of natural justice and Rule 46A of the Act by the LD.CIT(A) while deciding the issue, and further, there is no satisfaction recorded by the LD.CIT(A) regarding the above three requirements of law.

7. Per contra, the ld.AR submitted that during the assessment year under consideration, the assessee had received more than rupees 10 crores from various sources, which were duly noted by the AO in the assessment order, and the AO made the addition in respect to the amount of Rs.1,42,50,000/- stating that the amount was invested by the assessee from these advances received. It was submitted that the three requirements of the law has been examined by the LD.CIT(A) as pointed out by the ld.DR in paragraphs 5.3 and 5.4 of the order of LD.CIT(A). The ld.AR further submitted that the case of the Revenue is not sustainable.

8. We have heard the rival submissions and perused the material on record. In the present case, though it is mentioned that the AO despite noting down categorically that the assessee has failed to provide creditworthiness of the creditors, genuineness of the transactions and, more particularly, has failed to provide PAN, Aadhar details of the persons who had given confirmation letters for an amount of Rs.1,42,50,000/-. It was incumbent upon the LD.CIT(A) to make himself satisfied and to carry out necessary enquiry at his end based on the documents furnished by the assessee, as the Revenue failed to discharge its duties as contemplated under law. Furthermore, we are of the opinion that the decision in the case of the Delhi High Court in the case of CIT v. Jansampark Advertising & Marketing (P.) Ltd. [2015]

56 taxmann.com 286 has clearly cast a duty on the LD.CIT(A) to do and discharge the functions as required by the Assessing Officer as the LD.CIT(A) is having co-terminus power and should have satisfy himself about the genuineness of the transactions, creditworthiness of the creditors and the identity of the creditors, who advanced the amounts to the assessee. Since the needful has not been done, we remand the matter back to the file of LD.CIT(A) with a direction to call for a remand report on the documents, if any, furnished by the assessee or on the documents already available on record to decide this limited issue. Accordingly, the appeal of the Revenue is allowed for statistical purposes.

9. In the result, the appeal of the Revenue is allowed for statistical purposes.

Order pronounced in the Open Court on 12th November, 2024.

Sd/-

Sd/-

(MADHUSUDAN SAWDIA) ACCOUNTANT MEMBER	(LALIET KUMAR) JUDICIAL MEMBER
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Hyderabad, dated 12 .11.2024.

TYNN/sps

Copy to:

S.No	Addresses
1	Chinnamaneni Infra Private Limited, Flat No.203-204, Mudra Tara Tycoon, Tarnkaka, Hyderabad – 500017, Telangana.
2	The Deputy Commissioner of Income Tax, Circle – 1(1), Hyderabad.
3	Pr.CIT, Hyderabad.
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order