

आयकर अपीलीय अधिकरण
कोलकाता 'ए' पीठ, कोलकाता में
IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA 'A' BENCH, KOLKATA

श्री राजपाल यादव, उपाध्यक्ष (कोलकाता क्षेत्र)

एवं

श्री संजय अवरुथी, लेखा सदस्य

के समक्ष

Before

SRI RAJPAL YADAV, VICE-PRESIDENT

&

SRI SANJAY AWASTHI, ACCOUNTANT MEMBER

I.T.A. No.: 867/KOL/2024

Assessment Year: 2012-13

Dhruv Vanijya Private Limited.....*Appellant*
[PAN: AADCD 0687 N]

Vs.

ITO, Ward 8(2), Kolkata.....*Respondent*

Appearances:

Assessee represented by: *Abhishak Bansal, AR*

Department represented by: *Subhro Das, Addl. CIT, Sr. DR.*

Date of concluding the hearing : September 4th, 2024

Date of pronouncing the order : November 18th, 2024

ORDER

Per Sanjay Awasthi, Accountant Member:

In this case, a perusal of the impugned order reveals that some information was received by the Assessing Officer (hereinafter referred to as ld. 'AO') from the Investigation Wing indicating that the appellant company was obtaining accommodation entries and had received Rs. 10 Lakh during FY 2011-12 from one M/s. Pelican Dealers Pvt. Ltd. As per the said information M/s. Pelican Dealers Pvt. Ltd. was a shell company and as per the official website of Ministry of Corporate Affairs, the said M/s. Pelican

Dealers Pvt. Ltd. was a "strike off company" indicating sub-par credentials. It is understood that a "strike off company" is allegedly a defunct company the name of which has been struck off by the ROC. It is seen from a perusal of the orders below that an amount of Rs. 10 Lakh (impugned amount) was received from this M/s. Pelican Dealers Pvt. Ltd. against sale of 10,000 equity shares of one Chandrima Vintrade Pvt. Ltd. during FY 2011-12. Thereafter, it is seen that reasons were recorded and thereafter, proceedings were initiated for reassessment u/s 147 of the Act. It is observed that the reasons for reopening were duly communicated to the appellant and thereafter, the appellant is seen to have provided documents in the shape of audited financial statements, computation of income, bank statement, sales invoice and ledger confirmation to indicate that the said transaction was duly accounted for and reflected in the books of accounts. It is observed that ITR acknowledgement of M/s. Pelican Dealers Pvt. Ltd. and bank statement were also supplied to the ld. AO. However, the ld. AO doubted the transaction considering the status of M/s. Pelican Dealers Pvt. Ltd. *Vis-à-vis* the official website and added Rs. 10 Lakh u/s 68 of the Act.

1.1. Before the ld. CIT(A), while the appellant kept on insisting that he had not been supplied with the material relied upon and details of any enquiries made by the ld. AO before arriving at an adverse conclusion leading to the impugned addition, the ld. CIT(A) basically relied on the finding of the ld. AO and upheld the order. Aggrieved with this action, the assessee is in appeal before us through the following grounds of appeal:

“1. For that the assessment order passed by the Ld. AO is bad in law as well as on facts.

2. For that the assessment order passed by the Ld. AO without providing the assessee copies of material relied upon, inquiries made and approval obtained before initiating the reassessment proceedings is bad in law.

3. For that the Ld. CIT(A)- NFAC erred in confirming the action of the Ld. AO in assessing Rs. 10 Lakh received during the year on account of sale of investments as unexplained cash credit in spite of the fact that the assessee

filed evidences in support of the same and no deficiencies were found therein.

4. For that the Ld. CIT(A)- NFAC erred in confirming the action of the Ld. AO in assessing For that the Ld. AO erred in assessing Rs. 10 Lakh received during the year on account of sale of investments as unexplained cash credit in spite of the fact that the notice issued to the party to whom the investments were sold was duly served and complied with by it confirming the transaction with the assessee and filing details and documents as called for.

5. For that even otherwise, as the amount of Rs. 10 Lakh was received on account of sale of investments, the provisions of Sec. 68 does not apply at all.

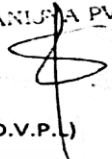
6. For that under the facts and circumstances of the case, the additions made by the Ld. AO and confirmed by the Ld. CIT(A) are merely based on surmises and conjectures and without any adverse material on record.

7. For that the appellant craves leave to add, alter or withdraw any grounds of appeal on or before hearing of the appeal.”

2. Before us, the ld. A/R has strenuously argued that the identity, creditworthiness and genuineness aspects pertaining to the impugned transaction were duly proved before the ld. AO and hence, the action of invoking Section 68 of the Act on the impugned amount was unjustified. The ld. A/R also averred that all along the appellant had been asking for material on the basis of which M/s. Pelican Dealers Pvt. Ltd. was taken adverse note of and the impugned transaction was thereby held to be tainted. The ld. A/R filed copies of audited accounts and invoice and bank accounts pertaining to the said transaction.

2.1. The ld. D/R while relying on the orders of the authorities below mentioned that the said transaction was justifiably treated u/s 68 of the Act since it pertained to a one-on-one transaction between the assessee and M/s. Pelican Dealers Pvt. Ltd. in the shares of an unlisted company and hence, the appellant should have proved the *bona fide* of the said transaction to the satisfaction of the ld. AO.

3. We have considered the rival contentions and also gone through the orders and documents placed before us. In the paper book filed before us the invoice pertaining to the impugned transaction has also been presented for examination. The same is extracted as under:

DHRUV VANIJYA PRIVATE LIMITED	
5 Garstin Place, Kolkata – 700001 CIN : U52100WB2008PTC132170	
BILL	
Date : 15/10/2011	
To M/s. PELICAN DEALERS PRIVATE LIMITED 59, M D ROAD, GROUND FLOOR KOLKATA 700006	
Particulars	Amount (Rs.)
10,000 Equity Share of M/s CHANDRIMA VINTRADE PVT .LTD. sold @100/- each	10,00,000.00
Dist. No.....	
Cert. No.....	
Total (Rs.)	10,00,000.00
(Rupees : Ten Lakh Only)	
DHRUV VANIJYA PVT. LTD.  Director (D.V.P.L.)	
PAN No. AADCD0687N Bank : united bank of india A/c No : 0489050009676	

Being Rs. 10,00,000/-
Received on 14/10/2011
vide RTGS.

3.1. It is seen that the invoice pertained to an off-market transaction in an unlisted company. It is evident that the factual matrix around the impugned transaction has been duly established in this case as it is felt that the appellant could have done no better than produce the kind of documentation

that he did actually do so before the ld. AO to establish the genuineness of the transaction. Accordingly, the additions made by the ld. AO are directed to be deleted.

4. In the result, appeal of the assessee is allowed.

Order pronounced in the open Court on 18th November, 2024.

Sd/-

[Rajpal Yadav]

Vice President

Sd/-

[Sanjay Awasthi]

Accountant Member

Dated: 18.11.2024

Bidhan (P.S.)

Copy of the order forwarded to:

- 1. Dhruv Vanijya Private Limited, 82/B, Monoshatolla Lane I-Plaza, 3rd Floor, Kolkata, West Bengal, 700023.**
- 2. ITO, Ward 8(2), Kolkata.**
- CIT(A)-NFAC, Delhi.
- CIT-
- CIT(DR), Kolkata Benches, Kolkata.
- Guard File.

//True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata