

आयकर अपीलीय अधिकरण न्यायपीठ, कोलकाता ।
IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH, KOLKATA

BEFORE SHRI RAJESH KUMAR, ACCOUNTANT MEMBER
&
SHRI SONJOY SARMA, JUDICIAL MEMBER

I.T.A. No. 1835/KOL/2024
Assessment Year: 2012-13

WISE PROPERTIES PVT. LTD. 2 nd Floor, 10 Princep Street, Kolkata-700072 [PAN : AAAW9497N]	Vs	INCOME TAX OFFICER, Ward 1(1), Aaykar Bhavan , P-7, Chowringhee, Kolkata-700069
अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)

Assessee by :	Shri Miraj D. Shah, AR
Revenue by :	Shri Pradip Biswas, DR

सुनवाई की तारीख/**Date of Hearing** : 29.10.2024
घोषणा की तारीख /**Date of Pronouncement** : 27.11.2024

आदेश/O R D E R

PER RAJESH KUMAR, ACCOUNTANT MEMBER:

The present appeal is directed at the instance of the assessee against the order of the National Faceless Appeal Centre, Delhi [hereinafter 'Id. CIT (A)'], dated 05.08.2024, passed under Section 250 of the Income Tax Act, 1961 (in short "the Act"), for Assessment Year 2012-13.

2. In the appeal of the assessee has challenged the addition of ₹3,11,45,000/- made by the Id. AO u/s 68 of the Act, being share capital / share premium.

3. Facts in brief are that the assessee filed the return of income on 22.08.2024, showing total income of ₹5,160/-. The case of the

assessee was selected for scrutiny through Computer Assisted Scrutiny Selection (CASS) and statutory notices were duly served to the assessee u/s 143(2) and 142(1) of the Act. During the course of assessment proceedings, the ld. AO observed that the assessee has receipt of fresh subscription to its share capital and share premium of ₹3,11,45,000/-. During the assessment proceedings the assessee filed evidences before the ld. AO and also produced books of accounts to support its claim of receipt of share capital and share premium. The ld. AO also issued summon u/s 131 of the Act to the subscribers which were not complied with and finally the ld. AO came to the conclusion that the identity and creditworthiness of the subscribers and genuineness of the transactions were not proved and thus added the same to the income of the assessee u/s 68 of the Act as unexplained cash credit. Aggrieved assessee preferred the appeal before the ld. CIT (A) .

4. In the appellate proceedings, the ld. CIT (A) confirmed the order of the ld. AO by holding that the assessee failed to prove the identity, creditworthiness and genuineness of the subscribers.

5. After hearing the rival contentions and perused the records available on record ,we find that the amount of share capital / share premium of ₹3,11,45,000/-, which was stated to be received by the assessee during the financial year is a wrong finding of facts by the both the authorities below, which have occurred due to overlooking of the facts available on records furnished by the assessee before both the authorities. We note that out of the said amount assessee has received ₹2,37,45,000/- qua share application money pending allotment in the F.Y. 2010-11 from six parties namely; Abhijeet Projects Ltd. ₹25,00,000/-, Long Life

Vanijya Private Ltd. 74,00,000/-, Arission Infrastructure P. Ltd. of ₹34,00,000/-, Mudrika Projects Pvt. Ltd of ₹1,03,50,000/-, Network Pvt. Ltd. 1,25,000/- & Monitor Tie-up Pvt. Ltd of ₹73,70,000/- meaning thereby that the said money was not received in the current financial year and accordingly, the provisions of Section 68 of the Act could not be invoked to the money receipt in the earlier financial year. Therefore, we are inclined to delete the addition to the tune of ₹2,37,45,000/-.

6. So far as, balance of share share capital and share is concerned ₹74.00 lacs is concerned we note that the same was received from Long Life Vanijya Private Limited during the year. We note that the said company has been assessed u/s 143(3) of the Act, vide order dated 14.07.2014 for A.Y. 2012-13, wherein the return of income was duly accepted after examining the books of accounts and the copy of the assessment order is placed at page nos.11 to 14 of the Paper Book. Besides, the assessee has filed all the evidences of the subscriber before authorities below and ld. CIT (A) noted that the authorised capital of the said company i.e. Arission Infrastructure P. Ltd. was ₹10,30,00,000/- and its paid up capital is ₹9,07,13,000/- and its total Revenue from operation was disclosed at ₹74,53,77,715/-, however, the profit before tax has been disclosed at ₹(-) 2,72,665/-. In our opinion the authorities below have failed to comment as to how the assessee has failed to prove the identity and creditworthiness of these transactions. Moreover the addition cannot be made only on the basis of the fact that the summons issued u/s 131 of the Act to the subscribers company was not complied. We note that the assessee has placed all the evidences with the authorities as are available from page no 1 to 31 of the paper book. Considering these facts, we are inclined



to set aside the order of ld. CIT (A) and direct the AO to delete the addition.

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

Order pronounced in the Court on 27th November, 2024 at Kolkata.

Sd/-

**(SONJOY SARMA)
JUDICIAL MEMBER**

Kolkata, Dated 27. 11.2024

**SS, Sr.Ps*

Sd/-

**(RAJESH KUMAR)
ACCOUNTANT MEMBER**

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 , कोलकाता/DR,ITAT, Kolkata,
6. गार्ड फाईल /Guard file.

TRUE COPY

आदेशानुसार/ BY ORDER,

Sr. PS/ Assistant Registrar

आयकर अपीलीय अधिकरण

ITAT, Kolkata