

**IN THE INCOME TAX APPELLATE TRIBUNAL,
'SMC' BENCH, KOLKATA**

Before Shri Duvvuru RL Reddy, Vice-President (KZ)

**I.T.A. No. 1216/KOL/2024
Assessment Year: 2013-2014**

BDG Holdings Pvt. Ltd.,.....Appellant
26, P.K. Tagore Street,
Kolkata-700006
[PAN:AABCB0391B]
-Vs.-

Income Tax Officer,.....Respondent
Ward-7(1), Kolkata,
Aayakar Bhawan,
P-7, Chowringhee Square,
Kolkata-700069

Appearances by:

N o n e, appeared on behalf of the assessee

*Shri Arun Kanti Dutta, Addl. CIT, Sr. D.R., appeared on
behalf of the Revenue*

Date of concluding the hearing: November 18, 2024
Date of pronouncing the order: November 28, 2024

O R D E R

The present appeal is directed at the instance of assessee against the order of Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 20th April, 2024 passed for Assessment Year 2013-14.

2. Brief facts of the case are that the assessee is a Private Limited Company and filed its return of income for the assessment

year 2013-14 declaring income of Rs.83,770/-. Based on the credible information has been received from DDIT (Inv.), Unit-1(1), Kolkata vide letter dated 11.03.2019, Departmental inquiry revealed that there was transaction to the tune of Rs.25,00,000/- and has been credited in the Bank account of the assessee-company on transfer through RTGS/NEFT/Cash/Cheques from layering of different entities as found during examination in the Bank statement of M/s. Kolkata Weir Industries Limited bearing Account No. 052405000307 maintained with ICICI Bank, Diamond Harbour Branch. On such transfer of fund, the assessee-company was one of the beneficiary companies of the above referred sum during Financial Year 2012-13. The source of deposits remained unverified as does not commensurate with the income shown. It was noticed that the abovementioned Company provided accommodation entry to the extent of Rs.25,00,000/- to the assessee-company, who brought back its unaccounted money by this modus operandi. The assessee-company was thus beneficiary to the extent of Rs.25,00,000/- which remained unexplained.

3. A notice under section 133(6) was issued but the assessee-company failed to furnish the details/documents within the stipulated period. A notice under section 148 of the Act dated 19.03.2020 was issued to furnish return of income for the assessment year 2013-14. In response to the notice under section 148, the assessee has filed its return of income on 03.08.2020 for the assessment year 2013-14 showing total income of Rs.83,770/-. Subsequently notice under section 142(1) of the Act was issued

but there was no compliance from the assessee. Thereafter the ld. Assessing Officer concluded the assessment for the assessment year 2013-14 at an assessed income of Rs.25,83,770/-.

4. On being aggrieved, the assessee preferred an appeal before the ld. CIT(Appeals).

5. Before the ld. CIT(Appeals) also, the assessee did not appear to substantiate its claim. The assessee neither made any response nor filed any written submission for compliance to such notices issued. Thereafter the ld. CIT(Appeals) passed *ex-parte* order by dismissing the assessee's appeal.

6. On being aggrieved, the assessee preferred an appeal before the Tribunal by raising the following issues:-

(1) For that the orders passed by the lower authorities are arbitrary, erroneous, without proper reasons, invalid and bad-in-law, to the extent to which they are prejudicial to the interests of the appellant.

(2) For that the Ld. CIT (A) erred in dismissing the appeal of the appellant on alleged grounds.

(3) For that the assumption of jurisdiction u/s 147 and consequent issue of Notice u/s 148 of the Act is bad-in-law.

(4) For that the Ld. A.O. proceeded to reopen the assessment u/s 147 of the Act merely proceeding upon borrowed satisfaction of the Investigation Wing without conducting any independent enquiry which renders the initiation of proceeding u/s 147 bad-in-law and consequently the order passed u/s 147/144 r.w.s. 144B is liable to be quashed.

(5) For that the contentions raised by the appellant about the proceedings initiated u/s 148 of the Act ought to have been properly considered by the Ld. CIT (A) and as submitted by

the appellant the impugned assessment ought to have been cancelled.

7. At the outset, I came to know that inspite of receipt of the notices, no one appeared on behalf of the assessee. The ld. D.R. brought to my notice that before both the authorities, the assessee did not appear and both the authorities passed ex-parte orders. It was the submission of the ld. D.R. that the assessee is not interested to prosecute its case. Hence, he pleaded to uphold the orders passed by the revenue authorities.

8. I have heard ld. D.R. and carefully perused the materials available on record. I have also noticed that the ld. Assessing Officer passed the assessment order under section 147 /144 read with section 144B of the Act. On examining the facts of the case, I find that the ld. CIT(Appeals) had posted the case on several occasions, but there was no response on behalf of the assessee before the ld. CIT(Appeals) on the dates of hearing with regard to the details as called for by the ld. CIT(Appeals). Therefore, the ld. CIT(Appeals) was left with no other option except adjudicate he appeal *ex-parte* and dismissed the appeal by confirming the addition made by the ld. Assessing Officer. Therefore, considering the facts and circumstances of the case and considering the issues involved in the appeal as well as considering the plea of the ld. A.R., by following the principles of natural justice, I hereby remit the matter back to the file of Ld. CIT (Appeals)-NFAC in order to consider the appeal afresh and decide the case on merits by providing one more opportunity to the assessee of being heard in accordance with the principles of natural justice. At the same

breath, I also hereby caution the assessee to promptly co-operate before the Ld. CIT (Appeals)-NFAC in the proceedings failing which the Ld. CIT (Appeals)-NFAC shall be at liberty to pass appropriate order in accordance with law and merits based on the materials available on the record. Thus, the grounds raised by the assessee are allowed for statistical purposes.

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

Order pronounced in the open Court on 28/11/2024.

Sd/-

**(Duvvuru RL Reddy)
Vice-President (KZ)**

Kolkata, the 28th day of November, 2024

- Copies to :* (1) *BDG Holdings Pvt. Ltd.,
26, P.K. Tagore Street, Kolkata-700006*
- (2) *Income Tax Officer,
Ward-7(1), Kolkata,
Aayakar Bhawan,
P-7, Chowringhee Square, Kolkata-700069*
- (3) *Commissioner of Income Tax (Appeals),
National faceless Appeal Centre (NFAC),
Delhi;*
- (4) *CIT - , Kolkata;*
- (5) *The Departmental Representative;*
- (6) *Guard File*
- TRUE COPY**

By order

*Assistant Registrar,
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata*

Laha/Sr. P.S.