

आयकर अपीलीय अधिकरण, कोलकाता पीठ "ए", कोलकाता

IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH: KOLKATA

श्री राजेश कुमार, लेखा सटस्य एवं श्री प्रदीप कुमार चौबे, न्यायिक सदस्य के समक्ष
[Before Shri Rajesh Kumar, Accountant Member & Shri Pradip Kumar Choubey, Judicial Member]

I.T.A. No. 514/Kol/2024
Assessment Year: 2015-16

ITO, Ward-10(2), Kolkata	Vs.	Basukinath Retails pvt. Ltd. (PAN: AADCB 5783 H)
Appellant / (अपीलार्थी)		Respondent / प्रत्यर्थी

Date of Hearing / सुनवाई की तिथि	28.11.2024
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	.12.2024
For the assessee / निर्धारिती की ओर से	Shri Miraj D Shah, A.R
For the revenue / राजस्व की ओर से	Shri Pradip Kumar Biswas, Addl. CIT

ORDER / आदेश

Per Pradip Kumar Choubey, JM:

This is an appeal preferred by the revenue against the order of the Ld. Commissioner of Income Tax (Appeals)-NFAC, Delhi (hereinafter referred to as the "Ld. CIT(A)") dated 17.01.2024 for the AY 2015-16.

2. Brief facts of the case of the assessee are that the assessee is a private limited company. The AO on receiving credible information that the assessee received sum of Rs. 77,00,000/- during FY 2014-15 from Dilip Das and other entities proceeded to issue notice u/s 148 of the Act and asked the assessee to furnish return of income. The

assessee furnished reply to the questionnaire made by the AO but the AO was not satisfied with the reply and came into his conclusion by holding that although the final information as per order u/s 148A(d) dated 28.07.2022 mentions that the assessee company has received accommodation entries to the tune of Rs. 77,00,000/- during FY 2014-15 from Dilip Das via M/s Square Trades and Holdings Pvt. Ltd. and other entities, it is established that the actual amount of accommodation entries received through the intermediary M/s Square Trades and Holdings Pvt. Ltd. is Rs. 2,29,50,000/- and accordingly added the same amount u/s 68 of the Act.

3. The said order has been challenged by the assessee before the Ld. CIT(A) wherein the appeal of the assessee has been partly allowed by deleting the addition of Rs. 2,29,50,000/- made by the AO u/s 68 of the Act.

Being aggrieved and dissatisfied, the department has preferred the instant appeal.

4. The Ld. D.R challenged the impugned order by submitting that the Ld. CIT(A) has erred in deleting the addition of Rs. 2,29,50,000/- without any verification/ investigation of the assessee and merely relied on the paper submission of the assessee.

5. Contrary to that it has been argued by the Ld. Counsel of the assessee that there is no infirmity in the order of Ld. CIT(A) as the Ld. CIT(A) has not only discussed the facts, discussed the documentary evidences and judicial decision on this point and thereafter delete the addition of Rs. 2,29,50,000/- added by the AO u/s 68 of the Act.

6. Upon hearing the submission of respective parties, I have perused the order of the Ld. CIT(A) and find that it is the case of the assessee is that the assessee is a private limited company and the assessee had sold shares worth Rs. 230 Lakhs to M/s Square Trade and Holdings Pvt. Ltd. on 03.04.2010 during FY 2010-11, the assessee has furnished various documentary evidences before the AO in support of the explanation to treat the same of Rs. 2,29,50,000/- on genuine business transaction. We further find that the receipt of Rs. 2,29,50,000/- during the assessment year under consideration was in fact against the sale of shares made in the assessment year 2011-12 which is offered

as sales in the said assessment years. It is the main argument of the assessee is that once sales have been offered to tax, subsequent realization cannot be taxed once again. We have gone through the order of Ld. CIT(A) and find that in view of the AO's order that nothing had been furnished by the assessee in support of the genuine transaction, the Ld. CIT(A) by exercising the power vested u/s 250(4) of the Act read with 46(a)(4) of the Income Tax Rules directed the assessee to furnish documents and in compliance of the same, the assessee has furnished following documents which is as follows:

- i. Audited financial statements of the appellant company for the year ended 31.03.2010.
- ii. Summary of stock of equity shares held as on 31.03.2010 by the appellant company as per its books of account.
- iii. Copy of the invoice dated 03.04.2010 issued by the appellant to M/s. Square Trades & Holdings Private Limited towards sale of equity shares.
- iv. Confirmation of accounts issued by M/s. Square Trades & Holdings Private Limited for the period from 01.04.2010 to 31.03.2011.
- v. Confirmation of accounts issued by M/s. Square Trades & Holdings Private Limited for the period from 01.04.2012 to 31.03.2013.
- vi. Confirmation of accounts issued by M/s. Square Trades & Holdings Private Limited for the period from 01.04.2014 to 31.03.2015.
- vii. Copy of the return of allotment of M/s. SS Commotrade Private Limited.
- viii. Copy of the return of allotment of M/s. Vinay Vinimay Private Limited.
- ix. Audited financial statements of the appellant company for the year ended 31.03.2011.
- x. Audited financial statement of the appellant company for the year ended 31.03.2012.
- xi. Audited financial statements of the appellant company for the year ended 31.03.2013.
- xii. Audited financial statements of the appellant company for the year ended 31.03.2014.

- xiii. Copy of the bank account statement of the appellant company evidencing the receipt of funds from M/s. Square Trades & Holdings Private Limited.
- xiv. Copy of the affidavit of Director of M/s. Square Trades & Holdings Private Limited confirming the nature of transaction with the appellant company.
- xv. Ledger account of M/s. Square Trades & Holdings Private Limited in the books of account of the appellant for the period from 01.04.2013 to 31.03.2014.
- xvi. Ledger account of M/s. Square Trades & Holdings Private Limited in the books of account of the appellant for the period from 01.04.2014 to 31.03.2015.
- xvii. Certificate of incorporation, Memorandum and Articles of Association of M/s. Square Trades & Holdings Private Limited.
- xviii. Extract of annual report of M/s. Square Trades & Holdings Private Limited for the financial year ended 31.03.2015.
- xix. Audited financial statements of M/s. Square Trades & Holdings Private Limited for the year ended 31.03.2015.
- xx. Ledger account of the appellant company in the books of account of M/s. Square Trades & Holdings Private Limited for the period from 01.04.2010 to 31.03.2011.
- xxi. Ledger account of the appellant company in the books of account of M/s. Square Trades & Holdings Private Limited for the period from 01.04.2012 to 31.03.2013.
- xxii. Ledger account of the appellant company in the books of account of M/s. Square Trades & Holdings Private Limited for the period from 01.04.2014 to 31.03.2015.

We further find that the Ld. CIT(A) has discussed the balance sheet of the Basukinath Retails Pvt. Ltd. for the year ended 31.03.2010, stock summary and invoices and thereafter comes to the conclusion that the assessee had filed sufficient documentary evidences to establish that the sales in the year 2011-12 and received during the impugned assessment year are on account of opening receivable. The Ld. CIT(A) has also discussed the identity of M/s Square Trades and Holdings pvt. Ltd. (in

short STHPL) describing that the assessee has filed PAN, certificate of incorporation, memorandum of association and Article of association, balance sheet and profit and loss account were duly audited. The sale voucher, transactions are made through proper banking channel, transaction is reflected in books of both assessee as well as STHPL, the assessee's banking statement showing the sale receipts, ledger confirmation for every year duly signed and moreover STHPL has confirmed the transaction through Affidavit, all these documents established the genuineness of the transaction. Going over the documentary evidence filed by the assessee before the Ld. CIT(A), we find that the assessee is into the business of trading and investment in equity shares of various companies. As on 31.03.2010, the appellant's closing stock of shares were valued at Rs.10,39,00,000/- comprising of 4,08,630 equity shares of 24 companies which includes 31,000 equity shares of M/s. SS Commotrade Private Limited and 30,000 equity shares of M/s. Vinay Vinimay Private Limited valued at Rs.1,55,00,000/- and Rs.1,50,00,000/- respectively. From the perusal of audited financial statements of the appellant for the year ended 31.03.2010 in comparison with the return of allotment of the respective companies, it is evident that the appellant had purchased the equity shares of M/s. SS Commotrade Private Limited and M/s. Vinay Vinimay Private Limited on 31.03.2010.

Keeping in view the judicial decision as aforesaid and going over detailed order passed by the Ld. CIT(A), we do not find any infirmity in the impugned order of the Ld. CIT(A). Accordingly, the appeal of revenue is hereby dismissed.

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

Order is pronounced in the open court on 9th December, 2024

Sd/-

Sd/-

(Rajesh Kumar/राजेश कुमार)

(Pradip Kumar Choubey /प्रदीप कुमार चौबे)

Accountant Member/लेखा सदस्य

Judicial Member/न्यायिक सदस्य

Dated: 9th December, 2024

SM, Sr. PS

Copy of the order forwarded to:

1. Appellant- Income Tax Officer, Ward-10(2), Kolkata
2. Respondent – Basukinath Retails Pvt. Ltd., A-3/7, Gillander House, 8, Netaji Subhash Road, West Bengal-700001
3. Ld. CIT(A)-NFAC, Delhi
4. Ld. Pr. CIT- , Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata