

**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. 2054/Kol/2024**

**Assessment Year: 2013-14**

ACIT, Central Circle-4(2), Kolkata	Vs.	Mansamata Vyapaar Pvt. Ltd.  (PAN: AAFCM 8322 B)
Appellant / (अपीलार्थी)		Respondent / प्रत्यर्थी

Date of Hearing / सुनवाई की तिथि	25.11.2024
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	09.12.2024
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)-27, Kolkata (hereinafter referred to as the "Ld. CIT(A)") dated 27.07.2024 for the AY 2013-14.

2. It is seen, at the outset, that the tax effect on the disputed additions before us is less than Rs. 60 Lakh as prescribed in the CBDT's latest Circular No. 09/2024 dated 17.09.2024 for filing appeal by the Revenue before the Tribunal.

3. The Ld. Counsel appeared on behalf of the Department challenged the impugned order of the Ld. CIT(A) on the ground that the Ld. CIT(A) has erred in deleting the addition made amounting to Rs. 94,00,000/- u/s 68 of the Act without appreciating the material brought on record and facts evaluated by the AO in the assessment order.

4. The Ld. Counsel submits that the present appeal has been filed under exemption clause though the tax effect is less than 60 lacs prescribed limit of CBDT Circular. Contrary, the Ld. Counsel on behalf of the assessee supports the impugned order of the Ld. CIT(A) thereby submitting that Ld. CIT(A) has discussed elaborately and also discussed the case law and thereafter addition of Rs. 9,40,00,000/- have been directed to be deleted.

5. Upon hearing the rival submissions of the respective parties, we have perused the case of the assessee and it appears that the assessee filed its original return of income u/s 139 of the Act declaring total income of Rs. 93,940/-. The facts of the case are that the assessee filed its original return of income u/s 139 of the Act on 28.09.2013 declaring total income at Rs.93,940/-. Later, an assessment u/s 143(3) r.w.s. 153C of the Act was completed on 28.12.2017 determining total income of the assessee at Rs.93,940/-. Further, a credible information was received by the AO from the investigation wing that the assessee company had taken accommodation entry from one M/s Subhlakshmi Vanijya Pvt. Ltd. which was a shell company controlled by a well-known entry operator of Kolkata namely Mr. Manoj Kumar. On the basis of the said information, the case of the assessee was reopened after taking prior approval u/s 151 of the Act from the specified authority. Later, in pursuance to the direction of the Hon'ble Supreme court Order dated 04.05.2022, in terms of deemed show-cause notice u/s 148A(b) of the Act, information/materials were provided to the assessee on 19.05.2022 requesting it to file its objection, if any, within the specified date. In response to the same, the assessee furnished its objection against the show-cause notice issued to it. Considering the assessee's response as per provision of section 148A(c) of the Act, Order u/s 148A(d) of the Act was passed on 30.07.2022 with prior approval of specified authority. Subsequently, a notice u/s 148 of the Act was issued to the assessee

on 30.07.2022. In response to the same, the assessee had filed its return of income for the subjected AY on 05.08.2022. Later, all the statutory notices u/s 143(2) & 142(1) of the Act were issued to the assessee in timely manner. In response to the same, the assessee did not make any compliance. After that, the AO had passed the assessment order u/s 147 r.w.s. 144 of the Act on 22.05.2023 by the determining the total income of the assessee at Rs.94,93,940/-.

Being aggrieved and dissatisfied with the order, department has preferred the present appeal.

6. We have perused the order of AO and find that on the receiving credible information from the Investigation Wing that the assessee company had taken accommodation entry from one M/s Subhlaxmi Vanijya Pvt. Ltd. being controlled by the well-known entry operator namely Mr. Manoj Kumar, the case of the assessee was reopened, information which was received has been depicted in the AO's order which was as follows:

*“2.1. Information was received that M/s Subhlaxmi Vanijya Pvt. Ltd. is having a current Account no. 000605017752 with ICICI Bank Ltd. Sir R. N. Mukherjee Road, Kolkata Branch. Account was opened on 30.07.2008 and closed on 08.03.2014. Date of incorporation of the firm is 19.11.2007. PAN is AALCS 5695 R. Occupation is business, Account Nos. 000605024524, 694905500058 and 627605258874 are transaction linked. Manual alert was raised on the account. Transaction pattern shows that account is mainly credited by transfer/ RTGS. Total Debits and credits during the period from 21.03.2012 to 08.11.2013 was Rs. 2.99 crore each. Out of total credits, Rs. 1.83 crore was transferred from linked account, Rs. 98.45 lac was by RTGS from Sambuddha Tracon Pvt. Ltd., Amrit Cement Industries Ltd. Etc. Out of total debits Rs. 2.29 crore was transfer to linked account. Rs. 60 lacs was RTGS to Yoshoda Dealers Pvt. Ltd. Amrit Cement industries Ltd. No transaction seen after 08.11.2013. As per due diligence, customer and authorized signatory were not contactable. In view of unexplained transfer of funds between accounts. It is reported as suspicious.”*

We further find that the assessee has made investment in various unquoted shares which was liquidated via sale of shares and AO in its order have given the details of the party to whom the shares were sold which are as follows:

Date	Shares of Company	Buyers Name	No. Of Share	Rate	Total Value
14-05-2012	LabhdhanVanijya Pvt Ltd	Trinshna Distributors Pvt Ltd.	6,000	500	30,00,000
03-10-2012	LabhdhanVanijya Pvt Ltd	YogomayaMarketing Pvt. Ltd.	7600	500	38,00,000
22-11-2022	LoknathMartkentile Pvt Ltd	Greenforce Dealers Pvt. Ltd.	3400	500	17,00,000
31-01-2023	LabhdhanVanijya Pvt Ltd	Dhairya Commercial Pvt Ltd	1800	500	9,00,000
<b>Total</b>					<b>94,00,000</b>

On perusal of the order of AO it appears to us that amount received from sale of shares. The Ld. Counsel has brought a judgment passed by the Hon'ble Gujarat High Court in the case of PCIT vs. Ramniwas Ramjivan Kasat [2017] 82 taxmann.com 458 (Guj) which is as under:

*“where AO made addition to assessee’s income under Section 68 holding that amount received from sale of shares was in fact a bogus transaction, in view of fact that in previous assessment year purchase of shares in question had been treated as a genuine transaction in scrutiny assessment, when those shares were sold subsequently in relevant year, there was no question of treating said transaction as bogus and consequently impugned addition was to be set aside.”*

Keeping in view the facts of the case as well as the judgment of Gujarat High Court, we do not find any illegality in the order passed by the Ld. CIT(A). The Ld. CIT(A) has clearly discussed in its order that the assessee has proved three primary limbs of Section 68 of the Act i.e. identity, creditworthiness and genuineness of the company by providing necessary details and requisite documents in respect of said four purchaser entity. The Ld. CIT(A) has clearly held in its order that in the course of assessment proceedings the assessee explained the nature and source of the above sum and submitted necessary documents supporting explanation and AO examined the documents, accounts and records and did not give any adverse remark. It is pertinent to mention that the AO has also held that the amount was received as accommodation. Going Over the order of the Ld. CIT(A) and the facts of the case, we are not inclined to

interfere in the impugned order of the Ld. CIT(A). Accordingly, the appeal of the department is hereby dismissed on merit.

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

Order is pronounced in the open court on 9<sup>th</sup> December, 2024

Sd/-

Sd/-

(Rajesh Kumar/राजेश कुमार)

(Pradip Kumar Choubey /प्रदीप कुमार चौबे)

Accountant Member/लेखा सदस्य

Judicial Member/न्यायिक सदस्य

Dated: 9<sup>th</sup> December, 2024

SM, Sr. PS

Copy of the order forwarded to:

1. Appellant- ACIT, Central Circle-4(2), Kolkata
2. Respondent – Mansamata Vyapaar Pvt. Ltd., 8, Ho Chi Minh Sarani, Bhowanipur, Kolkata-700071
3. Ld. CIT(A)-27, Kolkata
4. Ld. Pr. CIT- , Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar  
ITAT, Kolkata Benches, Kolkata