

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

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

**I.T.A. No. 850/KOL/2024
Assessment Year: 2016-2017**

***Ratnakar Merchandise Pvt. Limited,.....Appellant
C/o. Subash Agarwal & Associates,
Advocates,
Siddha Gibson,
1, Gibson Lane, Suite 213,
2nd Floor, Kolkata-700069
[PAN:AADCR8555M]***

-Vs.-

***Income Tax Officer,.....Respondent
Ward-4(1), Kolkata,
Aayakar Bhawan,
P-7, Chowringhee Square,
Kolkata-700069***

Appearances by:

*Shri Siddharth Agarwal, Advocate, appeared on behalf of
the assessee*

*Shri Kapil Mondal, Addl. CIT, D.R., appeared on behalf
of the Revenue*

Date of concluding the hearing: November 20, 2024

Date of pronouncing the order: December 10, 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 22nd February, 2024 passed for Assessment Year 2016-17.

2. The assessee is a Private Limited Company, which filed its return of income for the assessment year 2016-17 declaring total income of Rs.1,87,350/-. Credible information received from the DDIT (Inv.) in respect of another company M/s. KCA Allied Services Pvt. Limited. It was found that M/s. KCA Allied Services Pvt. Limited made suspicious transactions of huge amounts, which were conducted through the bank account of the company and its associates concerns in a very short span of time. Investigation also revealed that the fund raised in the form of share capital/premium was bogus in nature since most of the allottee companies or their directors were already enlisted in the departmental database. On analyzing the information, the assessee-company's Bank account was credited with Rs.25,00,000/- from M/s. Adhik Multitrade Private Limited, which is a shell company in the form of bogus unsecured loan in the financial year 2015-16 relevant to the assessment year 2016-17. On the basis of this information, it was noted that there was an escapement of income from assessment in the hands of the assessee-company. Accordingly, a notice under section 148 was issued on 31.03.2021 and the same was duly served upon the assessee. In response to the notice, the assessee has stated that they had no transaction with M/s. Adhik Multitrade Private Limited and no ledger is available. The assessee also stated that all the bank statements throughout the financial year 2015-16 were also submitted to check the transactions. However, on perusal of the details uploaded, it was noted by the Id. Assessing Officer that Bank Statement for the entire period was not submitted by the assessee. In these circumstances, the

transactions are not verifiable from the material submitted by the assessee. Hence, it remained unexplained and the sum of Rs.25,00,000/- is added to the returned income of the assessee under section 69A of the Act. Aggrieved with the order of Id. Assessing Officer, the assessee preferred an appeal before the Id. CIT(Appeals).

3. The Id. CIT(Appeals) has given many opportunities to the assessee but there was no response from the assessee to the notices issued by the Id. CIT(Appeals). Therefore, the Id. CIT(Appeals) has left with no option except passing the order based on the material available on record. The Id. CIT(Appeals) has mentioned in his order saying that *“as per the order, the bank account statements produced by the assessee during the course of assessment proceedings were incomplete and in view of this, the AO was unable to verify the genuineness of the assessee’s contention that no such amount was credited to its account and in view of this, the said amount of Rs.25,00,000/- was added to the income returned u/s 69A of the Act as unexplained money of the assessee”*. During the course of the appellate proceedings also, the appellant failed to respond to any of the notices issued inspite of availing reasonable number of opportunities to do so. Therefore, the Id. CIT(Appeals) has confirmed the addition made by the Id. Assessing Officer.

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

(1) For that on the facts and in the circumstances of the case, ld. CIT(A) was not justified in passing ex-parte order.

(2) For that on the facts and in the circumstances of the case, ld. CIT(A) ought to have held that reopening proceedings were not valid in the eyes of law and, as such, quashed the order passed u/s 147 r.w.s. 144B of the Act.

(3) Without prejudice to the above, ld. CIT(A) ought to have deleted the addition of Rs.25,00,000/- made by the AO on the ground of alleged bogus loan received from M/s. Adhik Multitrade Pvt. Ltd.

5. It is an admitted fact that as per the assessment order, the assessee has not submitted bank account statement of Bank of Baroda during the period from 01.04.2015 to 31.03.2016, but the assessee has submitted the Bank details from the period 27.10.2015 to 22.03.2016 and from 01.03.2016 to 05.04.2016. Before ld. CIT(Appeals) also, he has not produced the Bank statement of Bank of Baroda from 01.04.2015 to 31.03.2016. Before me also, the assessee has not submitted the above said Bank account statement, but the assessee has submitted that there is no such transaction between the assessee and M/s. Adhik Multitrade Pvt. Limited. Without production of the Bank statement, it is very difficult to delete the addition or to accept the submission made by the assessee. Therefore, I remit the matter back to the file of ld. Assessing Officer to examine the Bank statement of Bank of Baroda from 01.04.2015 to 22.03.2016 as required by the ld. Assessing Officer. I also direct the assessee to produce the Bank statement of Bank of Baroda for the period from 01.04.2015 to 31.03.2016 before the ld. Assessing Officer failing

which the ld. Assessing Officer is at liberty to pass an appropriate order basing on the material available on record after opportunity of being heard to the assessee. Hence, the grounds raised by the assessee are allowed for statistical purposes.

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

Order pronounced in the open Court on 10/12/2024.

Sd/-

(Duvvuru RL Reddy)
Vice-President (KZ)

Kolkata, the 10th day of December, 2024

*Copies to :(1) Ratnakar Merchandise Pvt. Limited,
C/o. Subash Agarwal & Associates,
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*(2) Income Tax Officer,
Ward-4(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.