

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

**BEFORE SHRI RAJESH KUMAR, AM
AND
SHRI PRADIP KUMAR CHOUBEY, JM**

**ITA No.678/KOL/2019
(Assessment Year: 2012-13)**

Approva Export Pvt. Ltd.
2, Ganesh Chandra Avenue, 2nd
Floor, Room No.5,
Kolkata-700013, West Bengal

(Appellant)

PAN No. AAGCA3489A

ITO, Ward 2(2)
Aaykar Bhavan, P-7,
Vs. Chowringhee, Kolkata-700069

(Respondent)

Assessee by : Shri Miraj D. Shah, AR
Revenue by : Shri Prabhakar Prakash Ranjan,
DR

Date of hearing: 04.12.2024
Date of pronouncement : 16.12.2024

ORDER

Per Rajesh Kumar, AM:

This is an appeal preferred by the assessee against the order of the Commissioner of Income-tax (Appeals)-10, Kolkata (hereinafter referred to as the "Ld. CIT(A)") dated 28.02.2019 for the AY 2012-13.

02. The only issue raised by the assessee against the confirmation of addition of ₹60 lacs by the Id. CIT (A) as made u/s 68 of the Act by the Id. AO.
03. The Id AR at the outset submitted that the AO in last para at page no.1 of the assessment order stated that the assessee is engaged in bogus /accommodation entries provider and also layering for transfer of black money to beneficiary companies. Similar on page no.3 of the assessment order , the Id. AO again noted that the



assessee is engaged in providing accommodation entries to various beneficiaries and on page no.4 again the Id. AO vide letter dated 05.03.2015, asked to explain the source of money and stated that no reply was received and thereafter again noted that assessee is providing bogus accommodation entries, however, finally the Id. AO added the entire amount of ₹60 lacs to total income of the assessee. The Id. AR stated that in view of the findings given by the Id. AO the entire amount cannot be added to the income of the assessee and only some reasonable percentage towards commission has to be applied. Similarly, the Id. CIT (A) after following the decision *CIT vs. Durga Prasad More (1971) 82 ITR 540 (SC)*, and *Sumit Dayal Vs. CIT (1995) 80 Taxman 89 (SC)*, affirmed the order passed by the Id. AO thereby confirming the addition made. The Id. AR therefore, submitted that in view of the conflicting findings given by the AO as well as CIT (A), the issue may be set aside to the file of the lower authorities for denovo adjudication.

04. The Id. DR relied on the order of lower authorities.
05. After hearing the rival contentions and perusing the materials available on record, we find that the Id. AO in the assessment order at several places given finding that the assessee is a accommodation entry provider thereby converting the black money into white money and passing on to various beneficiaries and entities. However, the addition made was in contraction to the conclusion drawn by the AO in the assessment order. Similarly the Id. CIT (A) affirmed the order by relying various case laws which is again in contraction to the finding given by the Id. AO that the assessee is an accommodation entry provider. Considering these facts and circumstances, in our opinion it would be reasonable to restore the appeal to the file of the Id. AO for



fresh adjudication after examination and verification of the issues and adjudicating accordingly after offering reasonable opportunity of hearing to the assessee. We also simultaneously direct the assessee to co-operate in the set aside assessment proceedings. The appeal of the assessee is allowed for statistical purposes.

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

Order pronounced in the open court on 16.12.2024.

Sd/-
(PRADIP KUMAR CHOUBEY)
(JUDICIAL MEMBER)

Sd/-
(RAJESH KUMAR)
(ACCOUNTANT MEMBER)

Kolkata, Dated: 16.12.2024

Sudip Sarkar, Sr.PS

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. CIT
4. DR, ITAT,
5. Guard file.

BY ORDER,

True Copy//

Sr. Private Secretary/ Asst. Registrar
Income Tax Appellate Tribunal, Kolkata