

आयकर अपीलीय अधिकरण, कोलकाता पीठ "बी", कोलकाता

IN THE INCOME TAX APPELLATE TRIBUNAL "B" 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. 2117/Kol/2024

Assessment Year: 2018-19

M/s Kushmanda Financial Consultants Pvt. Ltd. (PAN: AADCK 6594 P)	Vs.	ITO, Ward-7(1), Kolkata
Appellant / (अपीलार्थी)		Respondent / प्रत्यर्थी

Date of Hearing / सुनवाई की तिथि	09.12.2024
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	17.12.2024
For the assessee / निर्धारिती की ओर से	Shri A. K. Tulsian, A.R
For the revenue / राजस्व की ओर से	Shri Abhijit Kundu, CITDR

ORDER / आदेश

Per Rajesh Kumar, AM:

This is an appeal preferred by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals)-NFAC, Delhi (hereinafter referred to as the "Ld. CIT(A)") dated 26.08.2024 for the AY 2018-19.

2. At the time of hearing, ground no. 1 is not pressed by the Counsel of the assessee and therefore the same is dismissed as not pressed.

3. Issue raised in ground no. 2 is against the confirmation of addition of Rs. 19,21,00,329/- u/s 69 of the Act by the Ld. CIT(A) as made by the AO in respect of bought forward current investments of Rs. 6,74,64,000/- and in respect of short term loan and advances of Rs. 12,46,36,329/- as appearing in the audited balance sheet.

4. Facts in brief are that the case of the assessee was selected for scrutiny for examining the investments/loans and advances and verification of transactions. Accordingly, the statutory notices were duly issued and served on the assessee along with questionnaire. The assessee filed before the AO the copies of bank statements in respect of UBI Bank and IDBI Bank, copies of ledger account in respect of UBI ,audited balance sheet, for AY 2016-17 and AY 2017-18. The AO upon examination of the evidences filed by the assessee came to the conclusion that the assessee has partly furnished the details sought in the reply and has not fully co-operated in the assessment proceedings. Finally the AO made two additions; one in respect of total current investments of Rs. 6,74,64,000/- and second of total short term loan and advances of Rs. 12,46,36,329/- by observing and holding as under:

“12. After considering the facts as mentioned above, it is observed that the assessee could not furnish any explanation; details and supporting evidences etc. in respect of the following investments; short term loans and advances, as appearing in its balance sheet/ ITR, for the year under consideration:

<i>Information code</i>	<i>Description</i>	<i>Amount (Rs.)</i>
<i>ITR/BS-035</i>	<i>Total current investments [ITR-Part-A-BS]</i>	<i>6,74,64,000/-</i>
<i>ITR/BS-016</i>	<i>Total short term loans and advances [ITR-Part-A-BS]</i>	<i>12,46,36,329/-</i>
	<i>Total Investments</i>	<i>19,21,00,329/-</i>

In spite of providing various opportunities as well as the final opportunity provided vide specific questionnaire forming part of notice u/s 142(1) dated 16.03.2021, the assessee could not have been able to furnish any details, explanation or supporting documents with regard to the source of aforesaid investments of Rs. 19,21,00,329/- till date. In view of above facts and circumstances of the case, the source of aforesaid total investment of Rs. 19,21,00,329/- is remained unexplained from the material available on record. I therefore after considering the overall facts and circumstances of the case the above mentioned total investment of Rs. 19,21,00,329/- as unexplained investment of the assessee for the year under consideration and accordingly an addition of Rs. 19,21,00,329/- is made in view of the provisions of Section

69 (read with Section 115BBE to be taxed @ 77.25%) of the I.T. Act, 1961, representing the unexplained investment which is added back to the declared income of the assessee.

[Addition : Rs. 19,21,00,329/-]

Further penalty proceedings in respect of addition of Rs. 19,21,00,329/- are also initiated separately u/s 271AAC [r.w.s 115BBE] of the Act, for unexplained investment found in the balance sheet.”

5. In the appellate proceedings, the Ld. CIT(A) dismissed the appeal of the assessee by simply upholding the order of AO by passing a very cryptic order.

6. After hearing the rival contentions and perusing the material on record, we find that both the authorities below have passed the respective orders without any application of mind to the facts available on records and details also furnished by the assessee. We have examined bank accounts of the assessee in respect of IDBI and UBI bank and also the audited balance sheets for the year ended 31.03.2016 and 31.03.2018 and find that the AO has added the entire investments as appearing in Sr. No. 3 aggregating to Rs. 6,74,64,000/- and also the advance to others Rs. 12,46,36,329/- as appearing in the audited statements on the ground that the assessee failed to furnish the supporting documents and also for the reasons that the same remained unexplained. We note that the investment and loans and advances to others which were appearing in the balance sheets and coming over from the earlier assessment years as is apparent from the audited balance sheet for 31.03.2016 for AY 2016-17. Therefore the same could be added as unexplained investments when these have been fully disclosed in the books of accounts and also coming over from preceding assessment years. Therefore, we do not find any merit in the contention of Ld. D.R that the issue may be restored to the file of AO for verification because the assessee was not cooperative in the assessment proceedings especially in view of the fact that the records which were filed before the authorities below itself were incomplete. We note that the orders passed by authorities were apparently wrong and without application of mind. Accordingly we set aside the order of Ld. CIT(A) and direct the AO to delete the addition.

7. In the result, the appeal of the assessee is allowed.

Order is pronounced in the open court on 17th December, 2024

Sd/-

Sd/-

(Pradip Kumar Choubey /प्रदीप कुमार चौबे)

(Rajesh Kumar/राजेश कुमार)

Judicial Member/न्यायिक सदस्य

Accountant Member/लेखा सदस्य

Dated: 17th December, 2024

SM, Sr. PS

Copy of the order forwarded to:

1. Appellant- M/s Kushmanda Financial Consultants Pvt. Ltd., 37, Diamond Harbour Road, Kolkata-700027
2. Respondent – ITO, Ward-7(1), Kolkata
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