आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'D' अहमदाबाद।

IN THE INCOME TAX APPELLATE TRIBUNAL
"D" BENCH, AHMEDABAD

BEFORE SMT.ANNAPURNA GUPTA, ACCOUNTANT MEMBER
AND
SHRI T.R. SENTHIL KUMAR, JUDICIAL MEMBER

ITA No.815/Ahd/2024
Assessment Year : 2016-17

Amanta Healthcare Ltd 8th Floor, Shaligram Corporates CJ Marg, Ambli Ahmedabad. PAN : AABCM 0366 P	Vs	The Pr.CIT-1 Vejalpur, Ahmedabad.

(Applicant)		(Responent)

Assessee by :	Shri Bandish Soparkar, and Shri Parin Shah, AR
Revenue by :	Shri Prathvi Raj Meena, CIT-DR

सुनवाई की तारीख/**Date of Hearing : 12/12/2024**
घोषणा की तारीख /**Date of Pronouncement: 20/12/2024**

आदेश/O R D E R

PER ANNAPURNA GUPTA, ACCOUNTANT MEMBER

The above appeal has been filed by the assessee against order passed by the Ld.Pr.Commissioner of Income Tax-1, Ahmedabad [hereinafter referred to as "ld.Pr.CIT] dated 8.3.2024 under section 263 of the Income Tax Act, 1961 ("the Act" for short) pertaining to Assessment Year 2016-17.

2. The grounds raised by the assessee are as under:

1. Ld. Pr. CIT Ahmedabad-1 erred in law and on facts revising an assessment order which is neither erroneous nor prejudicial to the interest of revenue.

2. Ld. Pr. CIT erred in law and on facts holding order erroneous and prejudicial to the interest of revenue on the alleged ground that AO failed to

verify transaction of Rs.66, 50,000/- between appellant & Headfirst Vinimay Pvt. Ltd.

3. Ld. Pr. CIT erred in law and on facts in revising the order on the alleged ground that the AO failed to verify transaction of Rs.66,50, 000/- reported with respect to Swarnaprakash Vanijya Pvt Ltd. as accommodation entry.

4. Ld. Pr. CIT erred in law and on facts initiating re visionary proceedings issuing notice on the allegation that appellant failed to supply details of transaction with Headfast Vinimay Pvt. Ltd. not verified by AO whereas the revision order directed AO to verify transaction with different entity Swarnprakash Vanijya Ltd.

5. Ld. Pr. CIT erred in law and on facts in not appreciating that relevant inquiry about alleged transaction with Headfirst Vinimay Pvt Ltd made by AO during assessment proceedings was complied with by the appellant and assessment order was finalized after due satisfaction of AO.

6. Ld. Pr. CIT erred in law and on facts not taking into consideration contention that the appellant never received any amount from Headfirst Vinimay Pvt Ltd further corroborated by submission of copies of bank statements for all four bank accounts for the year under the consideration.

7. Ld. Pr. CIT ought to have dropped 263 proceedings in absence of any concrete information such as date of transaction between appellant with Headfirst Vinimay Pvt Ltd, amount paid/ received, cheque no. TRGS/ NEFT transaction reference etc."

3. The order of the ld.Pr.CIT reveals that the assessment order found to be erroneous so as to cause prejudice to the Revenue's interest, was that passed u/s 147 of the Act.The same was found to be erroneous for the Assessing Officer(AO) having not inquired into the information available with him of the assessee being beneficiary of an accommodation entry, for which purpose and basis which information, reopening was resorted to by the AO.

4. The ld.Pr.CIT notes that the assessee had entered into transaction with M/s.Headfirst Vinimay P.Ltd. ("HVPL" for short) amounting to Rs.66.50 lakhs which, as per the information available with the AO, pertained to an accommodation entry where the assessee was allegedly a beneficiary. On going through the records , the Ld.PCIT noted that the assessee had provided no details of this

transaction during assessment proceedings. He therefore found the assessment order passed to be without making proper enquiries on the issue of accommodation entry of which the assessee was an alleged beneficiary and accordingly he initiated revisionary proceedings by issuing notice u/s 263 of the Act.

5. The order of the ld.Pr.CIT further reveals that the assessee submitted to him during the revisionary proceedings that he had not entered into any transaction with "HVPL", but the ld.Pr.CIT goes on to note that as per the information available on record, the transaction of Rs.66.50 lakhs was reported with Swarnaprakash Vanijya Pvt. Ltd. ("SVPL" for short).A screen-shot of the information is reproduced in his order. He further goes on to note that even the reasons recorded by the AO, mention the transaction with "SVPL", but the AO failed to verify the same, and therefore, the ld.Pr.CIT held the assessment passed to be erroneous for the AO not having considered the issue of accommodation entry transaction of Rs.66.50 lakhs relating to "SVPL". The Ld.PCIT accordingly set aside the assessment order passed under section 147 of the Act, with direction to the AO to pass fresh order in accordance with law, after examining the facts of the case relating to the extant issue discussed by him.

6. Therefore, as is evident from the order of the ld.Pr.CIT, the assessment order passed under section 147 of the Act in the case of the assesse was found to be erroneous causing prejudice to the Revenue on account of transaction entered into by the assessee of Rs.66.50 lakh with/relating to the "SVPL", not being inquired into/examined by the AO, despite specific information in this regard being available with the AO.

7. The ld.counsel for the assessee pointed out that in the reasons recorded for reopening the case, there is mention of a transaction entered into by the assessee with "HVPL" of Rs.66.50 lakhs, alleged to be an accommodation entry. In this regard, he drew our attention to copy of the reasons recorded, placed before us at paper-book page no.13 to 33, more particularly, page no.30, which contained an analysis of the information received by the AO. The same is reproduced hereunder:

3. Analysis of information received:

I. As per the information, it is seen that **Amanta Healthcare Limited** has made transaction an amount of Rs.66,50,000/- during AY 2016-17 with Headfirst Vinimay Pvt Ltd. the details of the same is as under:-

Beneficiaries from Account No. : 914020039881317 of M/S. HEADFIRST VINIMAY PVT LTD. (fund received from the beneficiary entities)

Name of beneficiaries	PAN	F.Y. 2015-16
Amanta Healthcare Limited	AABCM0366P	6650000

On analysis of the information, it is found that fund has been received in the account of Swarnprakash Vanijya Pvt. Ltd. from the entities Headfirst Vinimay Pvt Ltd. which is shell entities. Hence, the Headfirst Vinimay Pvt Ltd. from where the funds have been received in Headfirst Vinimay Pvt Ltd., shell entity, are also fund of Amanta Healthcare Limited as Headfirst Vinimay Pvt Ltd. has provided fund to shell entities in the form of bogus billing or otherwise.

8. The ld.counsel for the assessee pointed out that the assessee when confronted with this adverse information, repeatedly asked the AO to furnish specifics of the transaction allegedly carried out by the assessee with "HVPL" while categorically denying having entered into any transaction with "HVPL". He pointed out from various submissions made to the AO during re-assessment proceedings that the assessee also conveyed to the AO that he was unable to make out

any sense from the analysis of the information with the AO, which mentioned ***"SVPL" to have received funds from "HVPL", a shell entity, and hence HVPL from where funds have been received in HVPL shell entity are also funds of the assessee, as "HVPL" had provided funds to shell entity in the form of bogus billing***. The ld.counsel for the assessee pointed out that from this analysis of the information with the AO, the assessee could make out neither head nor tail of the same, and repeatedly asked the AO to explain what it meant. Therefore, he pointed out that during the assessment proceedings, the assessee, besides denying having any transaction with "HVPL", also asked the AO to provide specifics of the transaction and also the meaning of the analysis of the information with the AO. He pointed out that nothing of it was ever provided to the assessee. He contended that this fact was also pointed out to Ld.Pr.CIT, but he went on to mention the name of another entity "SVPL" which was *related* to the transaction. He contended that even the ld.Pr.CIT did not clarify as to how the "SVPL" was related to the transaction except for reproducing the screen-shot of the information available in the income-tax portal. He, therefore, stated that there is no basis for the finding of any error in the order of the AO on this count, when the fact on record is that the AO had information of the assessee being beneficiary of an accommodation entry with "HVPL" which the assessee factually denied having entered into any transaction with. The Revenue had no information, he contended, either the AO or the Pr.CIT, of specifics of this transaction entered into by the assessee. That the AO, therefore, he contended, had not erred in not making any addition on account of this information available with him.

9. The ld.DR. however, heavily relied on the order of the ld.Pr.CIT that the AO ought to have conducted inquiry on the information with him that the transaction related to one "SVPL" with the assessee.

10. Having heard contentions of both the parties and on going through the order passed by the Ld.PCIT , we find that the impugned order passed by the ld.Pr.CIT is not sustainable in the absence of a clear finding of error in the order of the AO. We find the impugned order passed to be without any application of mind, and without considering the information available on record with him.

11. The Ld.PCIT initiated revisionary proceedings finding that there was information with the AO that the assessee is a beneficiary of an accommodation entry from "HVPL" ,which information remained unexamined by AO.But subsequently, when the assessee denied entering into any transaction with it, he noted that the AO was also in possession of information that another entity, "SVPL" was also related to the transaction, and the AO had made no inquiry on this aspect.

Apparently, it is not case of the ld.Pr.CIT that the assessee was a beneficiary of an accommodation entry from "SVPL".The term that he has used for the transaction is that "SVPL" was ***related*** to the transaction. No specifics as to how "SVPL" was related to the transaction finds mention in the order. In the absence of any finding of the Ld.PCIT of the relation of SVPL to the transaction, we fail to understand what inquiry the AO ought to have done with respect to the same, and how not conducting any inquiry with respect to the same has resulted in the assessment order being erroneous causing prejudice to the Revenue. The order of the Ld.PCIT gives no clarity on

the said aspects.In the light of the same there cannot be said to be any finding of error by the Ld.PCIT in the order of the AO.

12. Even, otherwise, we went through the contents of the information with the AO recorded in his reasons for reopening the case of the assessee and placed before us at P.B 13-33 and we find that there is no merit in the finding of the Ld.PCIT that the AO ought to have conducted inquiry of the transaction in relation to SVPL, failure of which has rendered the assessment order passed erroneous.

13. On going through the contents of the reasons recorded by the AO for reopening the case of the assessee, which were placed before us at PB Page no.13 to 33., we find that Page No.14 to 20 contained the details of information received by the AO that the assessee was beneficiary of accommodation entry of Rs.66.50 lakhs. On going through the contents of this seven pages of information with the AO, we find that the information with the AO was to the effect that "SVPL" was involved in providing accommodation entries. From this information, it was inferred that all the entities which had received funds from "SVPL" were beneficiaries of accommodation entries.

The AO also had information that the amounts were being routed into "SVPL" through certain shell entities of "SVPL", which included "HVPL" as one of the entities. It was also noted that certain entities had given funds to the shell entities which in turn had routed funds to the "SVPL". These entities were also considered to be beneficiaries, since, they had provided bogus billing or accommodation entries to the shell entities.

14. Thus, it was concluded from the information that the chain of flow of funds was from certain entities to HVPL ,from there to "SVPL"

and finally to ultimate beneficiary. Both the first entity introducing funds in the shell entities, and the last entity receiving funds from "SVPL" were treated to be beneficiaries of accommodation entries. This information is culled out at page no.20 of the PB (in the reasons recorded) as under:

> *From the above, it is clear that funds received by Mis. Swarnprakash Vanijya Pvt. Ltd. in its Bank account mentioned above, amounting Rs.79,58,98,500/- and Rs.47,25,77,218/-during the F.Y. 2014-15 and F.Y. 2015-16 16 relevant to A.Y. 2015-16 and 2016-17 respectively are nothing but unexplained and undisclosed income. Hence, you are requested to take necessary action against the subject entity i.e. Mr. Sudeb Ghosh (PAN-ATJPG2443H) and Mr. Manash Bas (PAN-AYPPD6539A) director of Mis. Swarnprakash Vanijya Pvt. Ltd.*
>
> ***As discussed above, it is clear that Mis. Swnrnprnknsh Vanijya Pvt. Ltd. Is shell entity**. It has never filed any ITR. There had been no existence of the company on the given address. The existence of the company was on paper only. There was no actual business of the company. The company was formed for the purpose of providing accommodation entries.*
>
> ***On examination of the Bank statements, it is also found that the source of fund from where the fund was received in the subject entity was** Outstripe Suppliers Pvt Ltd, **Headfirst Vinimay Pvt Ltd**, Indrawati Commosales Pvt Ltd, Hanshika Dealers Pvt Ltd, Reachsmart Developers Pvt Ltd., **which are also shell entities.** It is found from the Ministry of Corporate Affair's website that all these entities have been strike off. There had been no existence of these companies on the given address. Hence, the existence of the company was on paper only. There was no actual business of the company. The company was formed for the purpose of providing accommodation entries.*
>
> *From financial analysis of the above companies, it is found that all these companies have no financial creditworthiness. **These entities had been formed for the purpose of providing accommodation entries to different beneficiaries. Hence, the beneficiaries of the fund are those companies where the funds were transferred.** From the Bank statements of Swarnprakash Vanijya Pvt. Ltd., it is clear that that majority of the funds received in the said account were further transferred to Integrated Master Securities Private Limited and Bikash Sureka. Hence, these entities are the beneficiaries of the fund.*
>
> ***It is also found that fund has been received in the account of Swarnprakash Vanijya Pvt. Ltd. from** the entities Outstripe Suppliers Pvt Ltd, **Headfirst Vinimay Pvt Ltd**, Indrawati Commosales Pvt Ltd, Hanshika Dealers Pvt Ltd, Reachsmart Developers Pvt Ltd. **These entities are also shell entities. Hence, the entities from where the funds have been received in these shell entities are also the beneficiaries of the fund as those entities have provided fund to shell entities in the form of***

> ***bogus billing or otherwise.*** *Accordingly, the beneficiaries of fund as discussed above are made above."*

15. The information relating to the assessee noted in the reason recorded which was noted by the Ld.PCIT also was to the effect that the assessee had made payment to the shell entity, "HVPL", i.e. the assessee was the first entity in the line of flow of funds, and therefore held to be a beneficiary of accommodation entry. Now the funds may have ultimately flown to "SVPL" from "HVPL" and that is the only relation of "SVPL" in the impugned transaction of the assessee as per the information with the AO, recorded in the reasons. The primary information with the AO was that the assessee had made payment to "HVPL". The assessee however has all along denied having made any payment to "HVPL". Neither the AO nor the ld.Pr.CIT was able to point out specifics relating to the transaction as to how, in what form, the assessee had made payment to "HVPL". The same is not coming out from the reasons recorded also. Therefore, when there is no information in the possession of the department of the movement of funds from the assessee to "HVPL" itself, as per their own finding, on the basis of information available with the AO there is no case of the assessee being involved in any accommodation entry. The co-relation with "SVPL" is not directly relating to the assessee. Therefore, the finding of the ld.Pr.CIT that the AO ought to have inquired into the relation of the transaction with "SVPL" is of no substance.

In view of the above, we hold that there is no basis at all with the Ld.Pr.CIT to hold the assessment order passed in the present case to be erroneous causing prejudice to the Revenue, for the AO having conducted no inquiry into the alleged accommodation entry received by the assessee from "SVPL".

The impugned order passed under section 263 of the Act is, therefore held not sustainable and is accordingly quashed.

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

Order pronounced in the Court on 20th December, 2024 at Ahmedabad.

Sd/-	**Sd/-**
(T.R. SENTHIL KUMAR)	**(ANNAPURNA GUPTA)**
JUDICIAL MEMBER	**ACCOUNTANT MEMBER**

Ahmedabad,dated 20/12/2024