

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

**SHRI SANJAY GARG, JUDICIAL MEMBER  
SHRI SANJAY AWASTHI, ACCOUNTANT MEMBER**

**I.T.A. No. 1883/Kol/2024  
Assessment Year: 2012-13**

**Paramsukh Tradelink Private Limited,**

18A, Ramakanta Bose Street,  
Kolkata - 700003

[PAN: AACCP0010G]

..... **Appellant**

**vs.**

**Income Tax Officer,  
Ward -7(2), Kolkata,**

Income Tax Officer,  
Ward 7(2), 5<sup>th</sup> Floor, P-7,  
Chowringhee Square,  
Kolkata - 700069

..... **Respondent**

**Appearances by:**

Assessee represented by : S. Jhajaria, FCA

Department represented by : B. Debbarma, JCIT, Sr. DR

Date of concluding the hearing : 10.12.2024

Date of pronouncing the order : 19.12.2024

**ORDER**

**PER SANJAY AWASTHI, ACCOUNTANT MEMBER:**

1. This appeal preferred by the assessee emanates from the order of the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi (in short 'the Ld. CIT(A)'] dated 12.07.2024, passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as the "Act") for Assessment Year 2012-13.

1.1 The brief facts of the case are that the assessee is a company and had filed its return of income for the Asst. Year 2012-13 on 07.12.2012, declaring total income of Rs.31,780/-. Later, the case was selected for

scrutiny assessment through CASS. During the course of scrutiny proceedings the Ld. AO noticed that the appellant had received a substantial amount as share premium while issuing shares. Subsequently, summons u/s 131 was issued to the assessee on 10.12.2014. But the assessee allegedly could not produce substantive evidences alongwith copies of share capital raised/share premium received/share application details, sources of funding of such share capital raised /share premium received/share application, etc. On the basis of available material on record the assessment was completed by AO by adding the share premium/share capital/share application of an amount of Rs.2,65,00,000/- as unexplained sum credited in the books maintained for the previous u/s 68 of the Act.

2. Aggrieved with the action of Ld. AO, the assessee approached the Ld. CIT(A) wherein it has been recorded in para 5 on page 13 and para 6 on page 14 of the impugned order that while the identity of the investor companies could be proved but the creditworthiness of the same and the genuineness of the transaction could not be beyond shadow of doubt. It has been recorded that the fact of non-attendance of two directors: Mr. Gopal Maity and Mr. Prakash Chandra Mishra, was an important ingredient in determining the lack of creditworthiness of the impugned transaction. In fact, this issue of non-attendance of directors is recorded in some detail in para 6 at page 14 of the impugned order. Needless to say, the assessee could not obtain any relief at first appellate stage and has therefore, filed the present appeal through the following grounds of appeals:

*“1. For that the Ld. CIT(A) erred in confirming the order of the AO in adding back the share capital including premium of Rs. 2,65,00,000/- raised during the year from 6 share subscriber companies as unexplained cash credit u/s. 68 when all the details and evidences were filed to prove the identity and creditworthiness of the party and genuineness of the transactions, the AO verified the same by issue of notice u/s 133(6), the onus that lay on the assessee was discharged and the AO simply made the addition stating that summons u/s 131 were not complied.*

*2. For that the Ld. CIT(A) erred in doubting the value of share premium amount determined by the assessee company for issue of shares when neither the provisions of section 56(2)(viib) came into force from the assessment year under consideration nor the source of source as required under the amended provisions of section 68.*

*3. For that on the facts and circumstances of the case, the Ld. CIT(A) erred in confirming the order of the AO in adding back Rs. 2,65,00,000/- which was unjustified and not in accordance with law.”*

2.1 Before us, the Ld. AR has filed a paper book running into 98 pages to illustrate the documentation presented before the authorities below to prove the genuineness of the transaction. The Ld. AR specifically pointed out the copies of letters sent to the Ld. AO by the two directors, expressing their inability to attend on the given dates. It has been vehemently argued that due to the reasons mentioned in the said letters the directors could not be present on the appointed dates and thereafter the mere fact of non-attendance has been used against the assessee. The copies of letters were placed on pages 18 and 19 of the paper book and the same has been perused. The Ld. AR also filed a separate sheet of paper in which the net worth of the investors companies has been attempted to be demonstrated.

3. The Ld. DR supported the order of authorities below and pointed out that in the case of closely held companies, merely filing of documents indicating their income tax details, financial statements, bank details etc. would not be sufficient to discharge the onus cast u/s 68 of the Act.

4. We have carefully considered the arguments of Ld. AR/DR and gone through the orders of authorities below. We have also gone through the paper book filed before us and also perused the letters written by two directors in response to summons issued for their personal attendance. It is worth appreciating that even the Ld. CIT(A) has recorded that the identity aspect of the impugned transactions were convincingly established. However, the genuineness of the transaction and creditworthiness of the investor companies has been doubted. To specific

query whether the directors of the assessee company were ready for examination in case given a chance, the Ld. AR mentioned that it was only a matter of chance that they could not appear before the Ld. AO and in case given another opportunity they would appear and ensure that appropriate statements are recorded. After consideration of the entire gamut of facts and circumstances, it is felt that the assessee deserves a chance to prove the bonafides of the transactions before the Ld. AO again. Accordingly, we deem it fit to remand the matter back to the file of Ld. AO, who would do well to re-appraise the documents concerning the impugned transactions and would also give a reasonable opportunity to the assessee for ensuring the attendance of the directors for examination and any other verification that may be required.

5. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the court on 19.12.2024

Sd/-  
**[Sanjay Garg]**  
**Judicial Member**

Sd/-  
**[Sanjay Awasthi]**  
**Accountant Member**

Dated: 19.12.2024.  
AK, PS

*Copy of the order forwarded to:*

1. Paramsukh Tradelink Private Limited
2. Income Tax Officer, Ward -7(2), Kolkata
3. CIT(A)-
4. CIT-
5. CIT(DR)

//True copy//

By order

Assistant Registrar, Kolkata Benches