

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

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

**ITA No. 2102/KOL/2024
(Assessment Year:2022-23)**

Income Tax Officer, Ward-25(2)
Aaykar Bhavan Dakshin,2,
Gariahat Road(s), Kolkata-
700068, West Bengal

(Appellant)

Santa Sarkar
Nandan Colony Rajpurakhali
ghosh Road, Rajpur Battala,
South-24 paraganas, Kolkata-
700049, West Bengal

Vs.

(Respondent)

PAN No. AWTPS2083A

Assessee by : Shri Manish Tiwari, AR
Revenue by : Shri P.N. Barnwal, DR

Date of hearing: 22.01.2025
Date of pronouncement : 31.01.2025

ORDER

Per Rajesh Kumar, AM:

This is an appeal preferred by the Revenue against the order of the National Faceless Appeal Centre, Delhi (hereinafter referred to as the "Ld. CIT(A)") dated 28.08.2024 for the AY 2022-23.

02. Revenue has raised following grounds of appeal:

"1. That, on the facts and circumstances of the case, the Ld. CIT (A) had erred in law by taking into account additional evidences from the appellant without allowing reasonable opportunity to the Assessing Officer as per provisions laid down in Rule 46A of the IT Rule, 1962.

2. That on the facts and circumstances of the case the Ld. CIT (A) erred in deleting the addition made by the Assessing Officer amounting to ₹67,15,03,368/- u/s 69a of the Income-tax Act, 1961 without appreciating the fact that the Assessing Officer passed the order u/s 143(3) read with Section 144B taking into cognizance all the documents and evidences filed by the assessee."



03. The common issue raised in all the appeal is against the deletion of addition of ₹67,15,03,368/- by Id. CIT (A) as made by the Id. AO u/s 69A of the Act by taking into account the additional evidences from the assessee without allowing reasonable opportunity to the AO as per provisions of Rules 46A of the I.T. Rules, 1962.
04. The facts in brief are that the assessee filed its return of income on 07.11.2022, declaring total income of ₹ 44,40,160/-. The case of the assessee was selected for scrutiny and statutory notices along with questionnaire were duly issued and served upon the assessee. The assessee filed the details and information as called for by the Id. Assessing Officer. The assessee is engaged in the wholesale trading business and dealer and distribution of ITC Limited, Adani Wilmer Ltd and Bharti Airtel Ltd. The Id. AO during the course of assessment proceedings called upon the assessee to explain the huge cash deposited of ₹14,54,40,700/ and ₹99,11,76,825/- in her books of accounts maintained with Axis Bank and ICICI Bank respectively. The total cash deposits aggregated to ₹113,66,67,525/-. The Id. AO also noted that the assessee has taken unsecured loans of ₹5,69,65,533/- and has current liabilities of ₹37,83,084/-. The assessee accordingly in his reply before the Id. AO submitted that cash received into the bank account were out of sales which were received by the assessee in the ordinary course of business and thereafter remittances were made to the suppliers. Finally, in Para 3.4.9, the Id. AO noted that the assessee has not submitted the cash flow statement for reconciliation of cash receipts during the year and has merely furnished the cash book showing receipts from small traders/ business persons. The Id. AO further noted that the assessee turnover as per GSTR-3B, was ₹46,51,64,157/-, whereas the cash deposited was ₹113,66,67,525/- and thus the assessee has not explained the differential amount of



₹67,15,03,368/-. Therefore, the Id. AO came to the conclusion that the said cash deposits were unexplained money within the meaning of Section 69A read with section 115BBE of the Act and the same was added to the income of the assessee.

05. In the appellate proceedings, the Id. CIT (A) allowed the appeal of the assessee after taking into account submissions, contention and evidences filed by the assessee which were also produced before the Id. AO in the assessment proceedings. The Id. CIT (A) while deleting the addition has observed and held as under:-

"4.1. From the perusal of the assessment order in respect of the above issue it is noted that the assessing officer has taken into consideration only the turnover of M/s Sristy Traders & M/s Sristy Telecom of Rs.46,51,64,157 only, overlooking the total GST and cess component of Rs.31,91,07,789 and the total collection in the business of M/s Sristy Telecom for Airtel Money at Rs.43.72 crores, which resulted in a situation where the assessing officer was looking for explanation for the balance cash deposit of Rs.67,15,03,368. The appellant during the course of this proceeding submitted a detailed explanation about the cash deposits as well as reconciliation of the same with the turnover and cash collection made in the businesses of M/s Sristy Traders and M/s Sristy Telecom The appellant also submitted reconciliation of the taxable value of the turnover with the GST & CESS components.

4.2. Having carefully perused the appellant submission and the reconciliation statements submitted by the appellant, I am of the considered view that the appellant had satisfactorily explained the cash deposits in the bank accounts and it appears that the assessing officer had ignored the GST component of the turnover and the cash collection of M/s Sristy Telecom in respect of the agency business of Airtel Money and wrongly concluded that the cash deposit of Rs.67,15,03,368 was to be explained by the appellant. In the above circumstances, I do not find any merit in the addition made by the assessing officer and accordingly the appellant deserves relief on ground No.1 relating to the addition of Rs. 67,15,03,368."

06. After hearing the rival contentions and perusing the materials available on record, we find that assessee is an authorized dealer and distributor of ITC Ltd., Adani Wilmer Ltd. and Bharti Products and Airtel Telecom Products. During the year assessee has shown turnover of ₹46,51,64,157/- as turnover of M/s Sristy Telecom, which was duly considered by the Id. AO, however, the AO completely overlooked the total GST and CESS component of ₹31,91,07,789/- and also total



collection in the business of M/s Sristy Telecom for Airtel was ₹43,71,76,142/-, which resulted in a situation where the AO was looking for explanation for the balance cash deposits of ₹67,15,03,368/-. The Id. CIT (A) noted that assessee has filed the detailed explanation about the cash deposit as well as turnover made and cash collection made in the business of M/s Sristy Telecom. The Id. CIT (A) thereafter held that assessee had the full source of cash deposits and therefore, the finding of the Id. AO that ₹67,15,03,368/- has remained unexplained was without any basis and foundation. The Id. AR also took us through the assessment order wherein the assessee has produced all the books of accounts before the Id. AO in compliance with all the evidences. We note from the perusal of Para 3.4.6 of the Id. AO's order, wherein it is mentioned that copy of cash book, details of unsecured loans, sundry creditors, ledger of parties, sales register with summary and other details in support of his contentions were filed by the assessee. The Id. AO also stated that the assessee submitted the list of sundry creditors and confirmations from the sundry creditors. It was further stated in the said para that video conferencing was given to the assessee on 15.03.2024 at 4 PM and assessee accordingly, furnish the details on 16.03.2024. Thereafter, the assessee took us through the various details furnished before the Id. Assessing Officer. We have examined the re-conciliation statement produced by the assessee and find that there is no discrepancy in the cash deposited by the assessee in the bank. We note that the Id. AO only considered the assessee's turnover of ₹46,51,64,157/-, being taxable value as per GSTR-3B and directed the said turnover from total tax deposited of ₹113,66,67,525/- and the balance of ₹67,15,03,368/-, was added in the assessment order to the income of the assessee for which the assessee failed to explain the source. We note that the Id. AO has completely ignored the fact that the cash



deposited into the bank also include GST/ CESS and other components such as cash collected in the business of M/s Sristy Telecom for Airtel Money of ₹43,71,76,142/-. Therefore, considering the above facts of the case, we are of the view that the addition made by the Id. AO was without any basis, which was rightly deleted by the Id. CIT (A) by passing the very reasoned and speaking order. We further note that the assessee has not filed any additional evidences under Rule 46A of the I.T. Rules , which needed to be confronted with the Id. AO and whatever the evidences were furnished before the Id. CIT (A) were already available before the Id. AO who has conveniently overlooked the evidences and made a wrong addition with total non-application of mind. Accordingly, the order of Id. CIT (A) is upheld and the order of the Revenue is dismissed.

07. In the result, the appeal of the Revenue is dismissed.

Order pronounced in the open court on 31.01.2025.

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

Sd/-
(RAJESH KUMAR)
(ACCOUNTANT MEMBER)

Kolkata, Dated: 31.01.2025

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