

आयकर अपीलीय अधिकरण, कोलकाता पीठ, कोलकाता

IN THE INCOME TAX APPELLATE TRIBUNAL "SMC" BENCH KOLKATA

Before Shri Sonjoy Sarma, Judicial Member and Shri Rakesh Mishra, Accountant Member

I.T.A. No.1366/Kol/2024
Assessment Year: 2017-18

Alcom Investment Pvt. Ltd.....Appellant
10th Floor, Gold Crest,
NS Road No.10, JVPD Scheme,
Vile Parle (W), Mumbai-400049.
[PAN: AACCG1658B]

vs.

ITO, Ward-12(1), Kolkata.....Respondent

Appearances by:

Shri Deepak Shaha, AR, appeared on behalf of the assessee.

Shri Archana Gupta, Addl. CIT- Sr. DR, appeared on behalf of the Revenue.

Date of concluding the hearing : February 12, 2025

Date of pronouncing the order : February 13, 2025

ORDER

Per Sonjoy Sarma, Judicial Member:

The present appeal has been preferred by the assessee against an order dated 29.05.2024 of the National Faceless Appeal Centre [hereinafter referred to as 'CIT(A)'] passed u/s 250 of the Income Tax Act (hereinafter referred to as the 'Act').

2. Brief facts of the case are that the assessee company is engaged in the business of trading in shares and financing loans. The assessee has filed its return of income for assessment year 2017-18 on 03.11.2017 declaring income of Rs.15,16,410/-. The case of the assessee was selected for scrutiny and during the assessment proceedings, it was observed that the assessee had received an advance of Rs.20,00,000/- from M/s Mars Fincom Pvt. Ltd. in the financial year 2016-17. It was noted by the Assessing Officer that the lender was a sister concern of assessee and held 16.21% shares in it. Several notices were issued to the assessee during the assessment proceedings but there was no proper

response from the assessee's side. Based on this, the Assessing Officer treated the transaction as deemed dividend u/s 2(22)(e) of the Act and made an addition of Rs.20,00,000/- in the hands of the assessee by completing assessment u/s 144 r.w.s. 147 of the Act.

3. Dissatisfied with the above order, the assessee preferred an appeal before the ld. CIT(A) against the assessment order. However, the ld. CIT(A) upheld the order of the Assessing Officer by dismissing the appeal of the assessee.

4. Aggrieved by the said order, the assessee filed the present appeal before this Tribunal raising various grounds. However, the primary contention of the ld. AR is that while passing of the impugned order, the ld. CIT(A) did not look into the issue regarding the jurisdiction of the Assessing Officer which was challenged by the assessee before the ld. CIT(A) as the assessee was not informed about the transfer the case of the assessee from Central Circle-1, Aurangabad to ITO, Ward-12(1), Kolkata without necessary approval from the competent authority. He also challenged the reopening of the case u/s 147 of the Act by stating that the initial proceedings u/s 147 were improper as no notice u/s 143(2) of the Act was issued upon the assessee. The ld. AR also stated that on the ground of the dismissal of the appeal by the ld. CIT(A) without addressing the jurisdiction of the Assessing Officer and also on validity of reopening, the impugned order needs to be set aside.

5. On the other hand, the ld. DR supported the orders of the lower authorities.

6. We, after hearing both the parties and perusing the materials available on record, find that the ld. CIT(A) has failed to adjudicate the issues raised by the assessee regarding the jurisdiction of the Assessing Officer to frame the assessment and also the non-issuance of notice u/s 143(2) of the Act to frame assessment which is a necessary as per law

and the ld. CIT(A) was complete silence about these issues. Therefore, we feel it justified to remand the whole issue back to the file of the ld. CIT(A) to re-examine the grounds raised by the assessee afresh after providing reasonable opportunity of being heard to the assessee.

7. In terms of the above, the appeal of the assessee is allowed for statistical purposes.

Kolkata, the 17th February, 2025.

Sd/-

[Rakesh Mishra]

लेखा सदस्य/Accountant Member

Sd/-

[Sonjoy Sarma]

न्यायिक सदस्य/Judicial Member

Dated: 17.02.2025.

RS

Copy of the order forwarded to:

1. Alcom Investment Pvt. Ltd
2. ITO, Ward-12(1), Kolkata
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches