

आयकर अपीलीय अधिकरण, कोलकाता पीठ "ए", कोलकाता

IN THE INCOME TAX APPELLATE TRIBUNAL "A" 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. 2153/Kol/2024

Assessment Year: 2015-16

Kinetic Vincom Pvt. Ltd. (PAN: AAECK 5033 E)	Vs.	ITO, Ward-4(4), Kolkata
Appellant / (अपीलार्थी)		Respondent / प्रत्यर्थी

Date of Hearing / सुनवाई की तिथि	11.02.2025
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	10.03.2025
For the assessee / निर्धारिती की ओर से	Shri Manish Tiwari, FCA
For the revenue / राजस्व की ओर से	Shri Subhendu Datta, CIT DR

ORDER / आदेश

Per Pradip Kumar Choubey, JM:

This is the appeal preferred by the assessee against order of Commissioner of Income Tax (Appeal)- NFAC, Delhi (hereinafter referred to as the Ld. CIT(A)] dated 27.08.2024 for AY 2015-16.

2. Brief facts of the case of the assessee are that the assessee is a private limited company, filed its return of income declaring total income of Rs. 5,120/-. The case of the assessee was reopened u/s 147 as the assessee company has provided loan to M/s

Indian Pulp and Paper of Rs. 10,13,00,000/- in the form of accommodation entry. Later on, in compliance to the order of Hon'ble Supreme Court in the case of Union of India and Ors. Vs. Asish Agarwal, the AO issued afresh notice u/s 148 of the Act and reopened the case u/s 147 of the Act after obtaining the approval of the competent authority. In response to the notice issued from time to time the assessee submitted the reply but the AO did not find the submission of the assessee tenable, accordingly, in view of the order passed by the Hon'ble Supreme Court in Union of India & Ors. Vs. Asish Kumar Agarwal (supra) the AO completed the assessment by making an addition of Rs. 10,13,00,000/- u/s 69A read with Section 115BBE of the Act.

3. Aggrieved by the said order the assessee preferred an appeal before the Ld. CIT(A) wherein also the appeal of the assessee has been dismissed.

Being aggrieved and dissatisfied the assessee preferred an appeal before us.

4. The Ld. Counsel for the assessee without arguing into the merit of the case has submitted that the AO has reopened the case on the basis of order passed by the Hon'ble Supreme Court passed in the case of Union of India and Ors. (supra). Later on, the Hon'ble Apex Court has discussed the case of Asish Agarwal in subsequent decisions passed in Rajib Bansal case and given a concrete finding on the issue raised by the assessee. The submission of the Ld. Counsel of the assessee is that the appeal of the assessee be restored into the file of the AO to pass afresh order on the issue raised by the assessee in view of the order passed by the Hon'ble Apex Court in Union of India & Ors. Vs. Rajib Bansal [2024] 10 TMI 264 (SC).

5. The Ld. D.R did not raise any objection.

6. Upon hearing the submission of the counsel of the respective parties, we have perused the order passed by the AO as well as Ld. CIT(A) and find that the AO has passed an order on the basis of Apex Court decision passed in Union in India & Ors. Vs. Asish Agarwal. Later on, Apex Court decision in Union of India & Ors vs. Rajib Bansal case has resolved a long-standing controversy surrounding reassessment proceedings u/s 148 of the Act. This controversy deemed very notices issued on

01.04.2021 and 30.06.2021 following the extended time line provided under Taxation and Other Laws (Relaxation and Amendment of Certain provisions) Act, 2020 is short called 'TOLA'. Admittedly, in the present case, the case of the assessee was reopened keeping in view the Apex Court decision passed in Union of India & Ors. Vs. Asish Kumar Agarwal. We find substance in the argument of the Ld. Counsel of the assessee is that the case be restored into the file of AO for a fresh decision., keeping in view, the recent judgment of the Apex Court passed in Union of India & Ors. Vs. Rajib Bansal. Accordingly, the order passed by the AO confirmed by the Ld. CIT(A) are hereby set aside. The appeal of the assessee restored into the file of AO with a direction to pass afresh order keeping in view the order passed by the Apex Court passed in Union of India & Ors. Vs. Rajib Bansal.

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

Order is pronounced in the open court on 10th March, 2025

Sd/-

(Rajesh Kumar/राजेश कुमार)
Accountant Member/लेखा सदस्य

Sd/-

(Pradip Kumar Choubey /प्रदीप कुमार चौबे)
Judicial Member/न्यायिक सदस्य

Dated: 10th March, 2025

SM, Sr. PS

Copy of the order forwarded to:

1. Appellant- Kinetic Vincom Pvt. Ltd., 7, Red cross Place, 4th Floor, Kolkata-700001
2. Respondent – ITO, Ward-4(4), 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