

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES: C : NEW DELHI

BEFORE SHRI ANUBHAV SHARMA, JUDICIAL MEMBER
AND
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER

ITA No.1393/Del/2018
Assessment Year: 2009-10

ITO,
Ward-10(2),
New Delhi.

Vs Gold Cause Constructions Pvt. Ltd.,
51, Furniture Block,
Kirti Nagar,
New Delhi – 110 015.

PAN: AACCG2459G

(Appellant)

(Respondent)

Assessee by : Shri Ashish Mendiratta, CA
Revenue by : Shri Om Parkash, Sr. DR

Date of Hearing : 04.03.2025
Date of Pronouncement : 12.03.2025

ORDER

PER ANUBHAV SHARMA, JM:

This appeal is preferred by the assessee against the order dated 14.12.2017 of the Commissioner of Income-tax (Appeals)-4, New Delhi (hereinafter referred to as the Id. First Appellate Authority or ‘the Ld. FAA’ for short) in Appeal No.889/16-17/CIT(A)-4 arising out of the appeal before it against the order dated 27.12.2016 passed u/s 143(3)/147 of the Income Tax Act, 1961 (hereinafter referred as ‘the Act’) by the ITO, ward 10(2), New Delhi (hereinafter referred to as the Ld. AO).

2. The grounds raised in this appeal are reproduced below;

“1. Whether CIT (A) has not erred in facts and in law in holding that issuance of notice u/s 148 of the Income-Tax Act was without independent application of mind by AO, which is contrary to facts on record and reasons recorded.

2. Whether CIT (A) is justified in holding that creditworthiness of the lender M/s Sewa Buildwell Pvt. Ltd and genuineness of the loan received from it cannot be doubted?

3. Whether CIT (A) is justified in accepting the contentions made by the assessee about the creditworthiness of the lender before him for the first time without actually providing an opportunity to AO to examine the same which is pre requirement as per rule 46A of the Income Tax Rule?

4. The appellant craves leave, to add, alter or amend any ground of appeal raised above at the time of the hearing.”

3. On hearing both the sides and after going through the impugned order of the Id.CIT(A), we find that as such no additional evidences were actually filed at the stage of first appeal nor CIT(A) has relied the same. That makes the aforesaid ground no. 3 to be superfluous.

4. Further, on going through the order of Id.CIT(A), we find that the Id.CIT(A) has reproduced the reasons for issue of notice u/s 148 of the Act in para 5.2 and the same establish that the Id. AO has merely relied the information as was received from DDIT (Inv.)-1, Faridabad. The Id.CIT(A) has observed that it was during assessment proceedings notice u/s 133(6) was issued to Sewa Buildwell Pvt. Ltd. which had allegedly given bogus loan of Rs.5 crores during the assessment proceedings. That indicated that the AO had not made any

inquiry about the genuineness of the loan transaction independently and based on the borrowed satisfaction the findings were given.

5. Then, we find that the Id. AO had made addition of Rs.5,10,00,000/- primarily on the basis of doubting the genuineness of loan transaction and alleged payment of commission on the same and the Id.CIT(A) has taken into account the fact that this company Sewa Buildwell Pvt. Ltd. was in the initial year of business and had paid a sum of Rs.8,42,85,000/- to Director, Town & Country Planning, Chandigarh under the Head: 'Building under development' for obtaining sanction of loan for construction of commercial and office spaces and audited financial statement of Sewa Buildwell Pvt. Ltd. show that the company had received advances from various parties amounting to Rs.16,10,05,000/- and the loan given to the assessee of Rs.5 crores appears in Schedule-3 of the balance sheet under the head: 'Investment' and the loan has been granted through banking channel. Thus, we find no reason to interfere with the findings of the Id.CIT(A) that the AO had made an erroneous assumption by doubting the financial credibility of the lender company without understanding its nature of business and sources of funds and reason for investment.

6. In the light of the aforesaid, we find no substance in the grounds raised by the Revenue. **The appeal of the Revenue is dismissed.**

Sd/-

(AMITABH SHUKLA)
ACCOUNTANT MEMBER

Dated: 12th March, 2025.

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Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Sd/-

(ANUBHAV SHARMA)
JUDICIAL MEMBER

Asstt. Registrar, ITAT, New Delhi