

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE

SHRI B.M. BIYANI, ACCOUNTANT MEMBER
AND
SHRI DINESH MOHAN SINHA, JUDICIAL MEMBER

ITA No.389/Ind/2023
Assessment Year:2018-19

ACIT-1(1) Indore	<u>बनाम/</u> <u>Vs.</u>	Bhatia Coal Washeries Ltd. 75/2, BCC House, Nagpur Road Wadgaon, Opposite Tristar Hotel, Chandrapur, Maharashtra
(Revenue/Appellant)		(Assessee/Respondent)
PAN: AADCB4771B		
Assessee by	Shri Kunal Agrawal & Harshit Choukse, ARs	
Revenue by	Shri Ram Kumar Yadav, CIT-DR	
Date of Hearing	08.01.2025	
Date of Pronouncement	27.02.2025	

आदेश / O R D E R

Per B.M. Biyani, A.M.:

Feeling aggrieved by order of first appeal dated 11.08.2023 passed by learned Commissioner of Income-Tax (Appeals), National Faceless Appeal Centre ["CIT(A)"] which in turn arises out of assessment-order dated 23.04.2021 passed by learned National e-Assessment Centre, Delhi ["AO"] u/s 143(3) of Income-tax Act, 1961 ["the Act"] for Assessment-Year ["AY"] 2018-19, the revenue has filed this appeal.

2. The background facts leading to present appeal are such that the return filed by assessee-company for AY 2018-19 was selected for scrutiny-

assessment and the AO issued statutory notices u/s 143(2)/142(1). Ultimately, the AO completed assessment vide order dated 23.04.2021 after making certain additions and thereby determining total income at Rs. 20,08,82,375/-. Aggrieved, the assessee carried matter in first-appeal to CIT(A) and succeeded partly. Now, the revenue has come in this appeal assailing the order of CIT(A).

3. The grounds raised by revenue are as under:

"1. Whether on the facts and in law in the circumstances of the case, Ld. CIT(A) has erred in allowing appeal of the assessee without appreciating the facts and circumstances of the case.

2. Whether on the facts and in law and in the circumstances of the case, Ld. CIT(A) has erred in not considering the fact that amounts Rs.3,30,00,000/- taken from GSB Real Estate Pvt Ltd. and Rs. 3,15,47,066/- taken from SSB Land Developers Pvt Ltd. are not supported by the corroborative evidences.

3. Whether on the facts and in law and in the circumstances of the case, Ld. CIT(A) has erred in deleting the addition on account of unexplained cash credits received of Rs. 3,30,00,000/- and Rs. 3,15,47,066/- received from GSB Real Estate Pvt Ltd. and SSB Land Developers Pvt Ltd respectively."

4. Thus, by means of these grounds, the revenue is challenging the action of CIT(A) in deleting the additions of Rs. 3,30,00,000/- and Rs. 3,15,47,066/- made by AO on account of unexplained cash credits received by assessee from its group companies M/s GSB Real Estate Pvt Ltd. and M/s SSB Land Developers Pvt Ltd respectively.

5. Ld. AR for assessee firstly carried us to following Para of assessment-order to show that the AO made a total addition of Rs. 20,01,73,839/- [which includes the impugned additions of Rs. 3,30,00,000/- and Rs. 3,15,47,066/- being contested in this appeal] on account of unexplained

cash credits u/s 68 only because of the reason that the assessee was unable to furnish evidences during assessment-proceeding:

"[4] The assessee is issued a notice u/s 142(1) dated 15.03.2021 requiring details of Unsecured Loans (Note no.-5) as per Balance Sheet for the FY: 2017-18 along with documents. However, no compliance is received from his end. A reminder letter dated 24.03.2021 is issued to the assessee giving him 3 more days to comply. However, the assessee has requested on 27.03.2021 for granting 15 more days. As the details in support of an unsecured loan does not require any re-calculation or re-computation etc; it should readily be available i.r.o. an assessee being a company who is already liable to get his accounts audited under the Companies Act, 2013, no further adjournment is granted from this end.

On perusal of the Balance Sheet for the FY: 2017-18 & 2016-17 and the compliance dated 03.02.2021 by the assessee regarding the Unsecured loans, it is observed that the assessee has Unsecured loans of Rs. 20,01,73,839/- as on 31.03.2018.

Moreover, all the parties related to the Unsecured Loans i.e. (i) Bhatia Global Trading Ltd, BCC House 8/5 Manoramaganj, Indore PAN: AAACB6751C (ii) SSB Land Developers Private Limited, BCC House 8/5 Manoramaganj, Indore PAN: AAOC6633A (iii) GSB Real Estates Private Limited, BCC House 8/5 Manoramaganj, Indore PAN: AADCG8107A (iv) BCC Cargo Ltd., BCC House 8/5 Manoramaganj, Indore PAN: AAACB6749C have been issued notice u/s 133(6) on 15.03.2021 requiring them to furnish:

[A] Copy of ITR and Balance sheet related to the FY: 2017-18

[B] copy of ledger of the above mentioned party for the FY: 2017-18.

No compliance is received from the above parties.

Further, the assessee has been issued a show cause notice dated 20.04.2021 as to why the addition as per above discussion should not be made. However, no compliance is received from his end.

Hence, the sum of Rs. 20,01,73,839/- is hereby treated as unexplained and added back to the income of the assessee for the year u/s 68 of the Income Tax Act, 1961."

6. Ld. AR submitted that the assessment-proceedings were conducted during Covid-19 period and therefore the assessee could not furnish evidences to AO and sought multiple adjournments but the AO did not grant adjournment and made hefty addition u/s 68 equal to the entire

outstanding balance of loans shown in assessee's Balance-Sheet as on 31.03.2018 at Rs. 20,01,73,839/- by treating the same as unexplained.

7. Then, the Ld. AR carried us to Para 3 of order of first-appeal passed by CIT(A) to show that the assessee filed all evidences by way of additional evidences under Rule 46A to CIT(A) which the CIT(A) admitted. The CIT(A) also called remand-report from AO; invited rejoinder from assessee to the remand-report and vehemently considered all documents. Thereafter, vide Para 4 of appeal-order, the CIT(A) made a cogent analysis and in sub-para 4.5 thereof, deleted the entire addition of Rs. 20,01,73,839/- made by AO holding thus:

"4.5 Findings and Decision

4.5.1 During the course of assessment proceedings, the AO made addition of Rs 20,01,73,839/- in respect of the loans advanced from three group companies namely (i) Bhatia Global trading Ltd. amounting to Rs. 1226.62 lacs (ii) SSB Land developers Private Limited amounting to Rs. 315.47 lacs (iii) GSB Real Estate Private Limited amounting to Rs. 330.00 lacs, (iv) BCC Cargo Ltd. amounting to Rs. 129.64 lacs.

4.5.2 Regarding the addition of Rs 12,26,62,473/- made by the AO on account of loan received from Bhatia Global Trading Ltd, in the remand report, the AO after perusing the ledger account & balance sheet of Bhatia Global Trading Ltd has admitted that the amount of Rs. 12,26,62,473/- is the opening balance of unsecured loans in the year under consideration. It is a settled legal proposition that the opening balance of unsecured loans taken in any prior years in the books of accounts of the appellant cannot be added u/s 68 of the act to the income of the appellant in subsequent years. Therefore the addition u/s 68 of the IT Act of Rs 12,26,62,473/- made on account of loan received from Bhatia Global Trading Ltd is hereby deleted.

4.5.3 Further, regarding the addition of Rs. 7,75,11,066/- on account of loans received from three group concerns - namely- (i) SSB Land developers Private Limited amounting to Rs. 315.47 lacs (ii) GSB Real Estate Private Limited amounting to Rs. 330.00 lacs and (iii) BCC Cargo Ltd amounting to Rs 129.64 lacs, during the course of appellate proceedings the appellant has submitted the ledger account of these parties along with the Balance Sheet and confirmation from these

parties. These documents had been forwarded to the AO for examination and submission of remand report. During the remand proceedings, the AO verified the ledger accounts of these parties along with Audited P&L and Balance-Sheet. In the remand report, the AO has admitted that the financial statement/balance sheet for the year under consideration of these companies namely BCC Cargo Limited, GSB Real Estate Private Limited and SSB Land Developers Private Limited reveal that they had advanced loans to the appellant. The AO also issued notice u/s 133(6) of the Act during the remand proceedings to SREI Equipment Finance Ltd. and on the basis of documentary evidence submitted by SREI Equipment Finance Ltd, the AO also concluded that all the three group concerns had received the amount from the NBFC namely SREI Equipment Finance Ltd and the same had been advanced to the appellant.

4.5.4 The below chart depicts that there is a close correlation between the fundings received by these respective parties from SREI Equipment Finance Ltd and the funds provided to the appellant:

Sr. No.	Name of the Co.	Date of receipt	Loan amount from SREI Equipment Finance Ltd.	Date of grant of loan to the appellant	Loan amount advanced to the appellant
1	GSB Real Estate Pvt.	31.12.2017	Rs.6,00,00,000	31.12.2017	Rs.3,30,00,000
2	SSB Land Developers Ltd.	28.03.2018	Rs.6,00,00,000	28.03.2018	Rs.3,15,47,066
3	BCC Cargo Ltd.	27.09.2017	Rs.10,00,00,000	28.09.2017	Rs.1,29,64,000
	Total				Rs.7,75,11,066

Thus, the nexus between the funds received from SREI Equipment Finance Ltd and the loan advanced to the appellant has been established. Therefore the source of source of the funding in respect of the unsecured loans received by the appellant during the year under consideration has also been established.

4.5.5 The appellant was having an outstanding term loan from SREI Equipment Finance Limited (NBFC) amounting to Rs. 13.94 Crores (approx.) as at the beginning of the relevant assessment year. The said loan was already overdue and due to financial difficulties, the appellant was not able to repay the instalments on timely basis. In order to repay the loan, the above-mentioned Group companies namely BCC Cargo Limited, GSB Real Estate Private Limited, SSB Land Developers Private Limited had taken over the said loan in their hands. Therefore, the genuineness of the transaction has also been established.

Thus, all the essential ingredients of Section 68 regarding identity, creditworthiness and genuineness of transaction has been duly

satisfied and the addition on this ground is not sustainable and hence deleted.

Therefore Ground 2 of appeal is accordingly allowed."

[Emphasis supplied]

8. Ld. AR next submitted that presently in this appeal, we are concerned with the loans of Rs. 3,30,00,000/- and Rs. 3,15,47,066/- taken by assessee from its group companies M/s GSB Real Estate Pvt Ltd. and M/s SSB Land Developers Pvt Ltd. respectively. The Ld. CIT(A) has dealt these items in Para 4.5.3 to 4.5.5 of order of first-appeal reproduced above. The assessee filed additional evidences to CIT(A) and the CIT(A) called remand-report from AO. The CIT(A) has mentioned the outcome of remand-report in Para 4.5.3. Thereafter, in Para 4.5.4, the CIT(A) has tabulated the details of sources available to its group companies M/s GSB Real Estate Pvt Ltd. and M/s SSB Land Developers Pvt Ltd. for giving loans to assessee. Lastly, in Para 4.5.5, the CIT(A) has also noted that the reason for which the assessee took impugned loans from its group companies. Thus, after a vehement consideration, the CIT(A) has accepted that the ingredients of section 68 were satisfied and accordingly deleted the addition.

9. While explaining so, Ld. also AR referred Pages 310-328 of Paper-Book to show that the details taken into account by CIT(A) in the Table in Para 4.5.4 are correct and duly supported by authentic documents in the form of various Ledger A/cs, A/c Statements and Bank Statements of assessee and the group companies. By carrying us through those documents, Ld. AR explained various debit and credit entries of funds transferred and

successfully demonstrated that there is no error in the facts and figures noted by CIT(A). Therefore, Ld. AR prayed, the order passed by CIT(A) is very much correct and must be upheld.

10. In reply, Ld. DR for revenue only relied upon the order of AO.

11. We have considered rival submissions of both sides and perused the documents held in Paper-Book to which our attention has been drawn including the orders of lower-authorities. At first, we find that the AO made a total addition of Rs. 20,01,73,839/- treating the entire closing balance of unsecured loans in assessee's Balance-Sheet as unexplained credit u/s 68. The AO did so because the assessee did not file evidences of concerned loans and sought multiple adjournments. The Ld. AR has submitted that the collection of evidences took time due to Covid-19 and therefore the assessee sought adjournments. Subsequently, during first appellate proceeding, the assessee filed all evidences to CIT(A) under Rule 46A and CIT(A) admitted the same and acted thereupon. The CIT(A), after considering evidences and submissions of AO as well as assessee, has passed a vehement order whereby he has deleted the entire addition of Rs. 20,01,73,839/-. Now, the department is in appeal for two items forming part of the addition of Rs. 20,01,73,839/-, namely the loans of Rs. 3,30,00,000/- and Rs. 3,15,47,066/- taken by assessee from its group companies M/s GSB Real Estate Pvt Ltd. and M/s SSB Land Developers Pvt Ltd. respectively. On a careful consideration, we find that the CIT(A) has adequately dealt these two items in Para 4.5.3 to 4.5.5 of impugned order. We also find that the

findings/conclusion given by CIT(A) is proper and supported by the documents filed in Paper-Book. The Ld. DR for revenue has, though relied upon AO's order, but could not show any error or perversity in the order of CIT(A). Being so, we do not have any reason to interfere with the order of CIT(A), hence the same is hereby upheld and the revenue's grounds are dismissed.

12. Resultantly, this appeal is dismissed.

Order pronounced by putting on notice board as per Rule 34 of ITAT Rules, 1963 on 27/02/2025

Sd/-

(DINESH MOHAN SINHA)
JUDICIAL MEMBER

Sd/-

(B.M. BIYANI)
ACCOUNTANT MEMBER

Indore

दिनांक /Dated : 27/02/2025
Patel/Sr. PS

Copies to: (1) The appellant
(2) The respondent
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File

By order

Sr. Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore