

IN THE INCOME TAX APPELLATE TRIBUNAL "PATNA BENCH", PATNA

(VIRTUAL HEARING AT KOLKATA)

**SHRI DUVVURU RL REDDY, VICE PRESIDENT
SHRI SANJAY AWASTHI, ACCOUNTANT MEMBER**

**I.T.A. No. 268/PAT/2024
(Assessment Year 2011-12)**

Shree Shree Dwarikaji Foods Private Limited,

Near State Bank of India,
New By Pass Road, Karmalichak,
Patna - 800009

[PAN: AAGCS9977F]

..... **Appellant**

vs.

**DC/AC, Circle-2,
Patna (Bihar)**

..... **Respondent**

Appearances by:

Assessee represented by : Sh. Anjan Biswas, FCA

Department represented by : Sh. Ashwani Kr. Singal, JCIT

Date of concluding the hearing : 19.05.2025

Date of pronouncing the order : 23.05.2025

ORDER

PER SANJAY AWASTHI, ACCOUNTANT MEMBER

1. This appeal arises from the order u/s 250 of the Income Tax Act, 1961 (hereafter "the Act"), passed by the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi vide order dated 27.12.2023.

1.1 In this case, the Ld. AO passed an order u/s 144 read with section 147 of the Act and added an amount of Rs. 46,00,000/- on account of alleged share application money received from one M/s Glorious Holdings Pvt. Ltd. It is a matter of record that the Ld. AO made several attempts to verify the genuineness of the transaction but due to non-cooperation by the assessee, the same could not be done. In fact, the assessee did not file

any return of income in response to notice u/s 148 of the Act and has also not responded to the terms of notice u/s 142(1) of the Act. Thereafter, the Ld. AO added the impugned amount u/s 68 of the Act.

1.2 Aggrieved with this action, the assessee approached the Ld. CIT(A), where also he could not succeed on the basis of the following findings:

“6. During the course of appellate proceedings, the appellant claimed that it has received share capital money of Rs.46,00,000/- from M/s. Glorious Holding Pvt Ltd and produced the audited balance sheet and other documents as an additional evidence in support of genuineness of the share application money transaction. In the counter comments on remand report, the appellant submitted that only two days' time was given to produce the books of accounts and documents and due to paucity of time they could not submit the evidences before the AO during assessment proceedings. The appellant further submitted that the registered address of M/s. Glorious Holding Pvt Ltd was changed from Kolkata to Mumbai and the change of address misguided the Investigation wing of Kolkata to declare the investigating company to be non-existent while company was doing the business in full swing.

6.2 I have perused the assessment order, grounds of appeal, submission of the appellant, additional evidences produced, remand report submitted by the AO and counter comments submitted by the appellant carefully. I find that the case was re-opened on the basis of information received from Investigation wing (DDIT Inv Unit 3(2), Kolkata) regarding the accommodation entry transaction conducted by entry operator through many shell companies. Further the AO on analysis of the information received noted that M/s. Gorisous Holdings Pvt is one of the shell companies who made transaction of Rs 46,00,000/- with the assessee company namely M/s. Shree Shree Dwaraji Foods Pvt Ltd Patna through its bank account No.504011016254 of Kotak Mahindra Bank Ltd, Kolkata and hence the AO found that appellant has done transactions with paper/shell company which has no business activity. Therefore, notice u/s 148 was issued to the appellant 26/03/2018 after obtaining the prior approval of the competent authority but there was no response from the appellant. Therefore, the AO issued further notices u/s 142(1) and 143(2) but again there was no response from the appellant. Since the appellant failed to respond the statutory notices and failed to prove the genuineness of the credit transaction of Rs.46,00,000/-, the AO had completed the assessment by making addition of Rs.46,00,000/- u/s 68 of the IT Act on account of unexplained cash credits.

During appellate proceedings the appellant produced additional evidences. Though the AO has not submitted any comments on the additional evidences, I find that the appellant has failed to prove the identity and genuineness of the concerned party and the creditworthiness of the share application money provider with supporting evidences. Further the contention of the appellant that due to change of address of M/s. Glorious Holding Pvt Ltd from Kolkata to Mumbai misguided the investigation wing is devoid on merits since it is not believable that after change of the address of the company no trail was kept at the old address. Further this claim is not supported by any evidence. In view of the above facts, the contention of the appellant is not found tenable. Hence the addition made by the AO is confirmed and grounds of appeal raised by the appellant are dismissed.

1.3 Further aggrieved with this action of the Ld. CIT(A), the assessee has filed the present appeal with the following revised grounds:

“1. The order passed by the Ld. A.O. and confirmation by the Ld. CIT(A) as undisclosed income U/S-68 of the income Tax Act, 1961, is bad in the Eye of the Law.

2. The Ld. CIT(A) had filed to apply his judicial mind on the evidence that share capital money was routed through Bank only.

3. The Ld. CIT(A) in his impugned order stated that notices u/s-148, 142(1) and 143(2) was not complied. But this happened due to fact that the key person Sri Naresh Kumar (Director), was suffering from kidney disease and ultimately died.

4. The Appellant had produced evidence regarding existence of M/s GHPL from MCA portal but this has been ignored by the Ld. CIT(A).

5. The Ld. CIT(A) admitted the evidence but passed the impugned order as relied on non-submission of comments by the Ld. A.O.

6. M/s GHPL, the investing company has changed its registered office from Kolkata to Mumbai with due permission of Central Government. But this fact has been marked as 'Non-existence of the investing company, M/s GHPL.

7. The investing company, M/s GHPL had total Net Worth of Rs. 75,24,03,770.90/- (Rupees Seventy-Five Crores Twenty -Four Lakhs Three Thousand Seven Hundred and Seventy Point Ninety Paise) as on 31/03/2011 as Balance Sheet of the company. This fact has not been considered as Credit Worthiness to invest only Rs.46,00,000/-

8. Till date the company M/s GHPL is in existence as per MCA portal and latest AGM held on 30/9/2024. It proves the existence of the company. But this fact was ignored by the Ld. CIT(A).

9. The Ld. A.O. In his impugned order had admitted that Rs.46,00,000/- was transferred by M/s GHPL through Kotak Mahindra Bank vide A/c No.504011016254. This proves the Genuity of the transaction. But this fact was ignored by the Ld. A.O. as well as the Ld. CIT(A).

10. The Appellant had approached to SBI for a Bank Finance of Rs. 300/- Lakhs but bank sanctioned Rs. 250/- Lakhs. This shortage of fund was met by issuing share of M/s GHPL. It proves genuine requirement of fund in business. But this fact was ignored by the Ld. CIT(A).

11. The Ld. CIT(A) ignored the fact that as MOA of M/s GHPL downloaded from MCA portal, that the Main Object of the company is Investment.

12. Hence, the appellant prays to set aside the impugned order issued by the Ld. CIT(A) dated 27/12/2023 and the impugned order issued by the Ld. A.O. dated. 29/12/2018.”

2. Before us, the Ld. AR argued with the help of two paper books containing documents which were presented before the Ld. CIT(A) and the same were shared with the Ld. AO for the purpose of remand report. During

the course of argument, the Ld. AR pointed out that the share capital subscriber (Glorious Holdings Pvt. Ltd.) probably could not be contacted since it had moved its office from Kolkata to Mumbai on 18.01.2018 and this fact was duly brought to the notice of Ld. CIT(A) as part of new evidences filed before him. The Ld. AR pointed out that the relevant document in this regard was on page 59 of paper book filed on 13.05.2025. There was a query from the Bench that the said documents had been downloaded only on 19.02.2024 at 9:21 pm, whereas the order of Ld. CIT(A) was dated 27.12.2023. It was further queried as to how this document was being presented before the ITAT as a document which had been filed before the Ld. CIT(A), when the impugned order predates the said document. The Ld. AR mentioned that this was a factual document and had been filed before the Ld. CIT(A) also. The Ld. AR assailed the action of authorities below by showing that the genuineness of the transaction stood proved by the substantial number of documents filed by the assessee before the Ld. CIT(A) and hence the addition deserved to be deleted.

2.1 The Ld. DR relied on the orders of authorities below and pointed out that the creditworthiness etc. of M/s Glorious Holdings Pvt. Ltd. was not established and hence the addition was justifiably sustained by the Ld. CIT(A).

3. We have considered the argument and also gone through the orders of authorities below, as also the contents of the paper book filed by the assessee. We find that there is a reasonable doubt as to the kind of documents presented before the Ld. CIT(A) under Rule 46A of the IT Rules and considering that on test check basis one very important document pertaining to the address of the share capital subscriber on the website of Ministry of Corporate Affairs which is seen to have been downloaded for the purpose of preparing and filing of a paper book in the ITAT only. Furthermore, it is seen that the Ld. CIT(A) has carefully considered the findings of the Ld. AO and also the new evidence filed before him and has given a finding regarding the creditworthiness etc. of the share capital

subscribers, and has concluded that the same is not proved. We do not find any reason to interfere with the finding of Ld. CIT(A) and we have no hesitation in upholding the clear findings in the impugned order.

4. With these remarks, the appeal filed by the assessee is dismissed.

Order pronounced on 23.05.2025

Sd/-
(Duvvuru RL Reddy)
Vice President

Sd/-
(Sanjay Awasthi)
Accountant Member

Dated: 23.05.2025
AK, Sr. P.S.

Copy of the order forwarded to:

1. Shree Shree Dwarikaji Foods Private Limited
2. DC/AC, Circle-2, Patna (Bihar)
3. CIT(A)
4. CIT
5. CIT(DR)

//True copy//

By order

Assistant Registrar, Kolkata Benches