IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

2024:PHHC:086507-DB

Date of Decision: 11.07.2024

1. **ITA No. 41 of 2024**

Pr. Commissioner of Income Tax (Central), Ludhiana

…..Appellant.

versus

M/s DP Ventures Pvt. Ltd. …..Respondent

2. **ITA No. 45 of 2024**

Pr. Commissioner of Income Tax (Central), Ludhiana

…..Appellant.

versus

M/s Silverline Buildtech Pvt. Ltd. …..Respondent

CORAM: HON'BLE MR.JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE JAGMOHAN BANSAL, JUDGE

Present : Mr. Saurabh Kapoor, Senior Standing Counsel
for the appellant.

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JAGMOHAN BANSAL, J. (Oral)

CM No. 5580-CII of 2024 in ITA No. 41 of 2024 and
CM No. 5677-CII of 2024 in ITA No. 45 of 2024

For the reasons mentioned in the applications, delay of 77 days and 63 days in filing the appeals is condoned. Both the applications stand disposed of.

ITA Nos. 41 of 2024 and 45 of 2024

2. Both these appeals are disposed of by this common order as common questions of law and facts are involved therein. For the sake of convenience, the facts are borrowed from ITA No. 41 of 2024.

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3. The appellant through the instant appeal under Section 260-A of the Income Tax Act, 1961 (for short '1961 Act') is seeking setting aside of order dated 27.04.2023 passed by Income Tax Appellate Tribunal, Amritsar (for short 'Tribunal') in Appeal No. 206/ASR/2022 for the Assessment year 2012-13.

4. The respondents-assessees received a sum of Rs.3.5 crores from Gurdip Singh Bath during the assessment year 2012-13 as unsecured loan. The Assessing Officer made re-assessment under Section 153-A of 1961 Act whereby he made addition of aforesaid loan in the returned income of the respondent-Asssessee. The demand/addition was made on the ground that the aforesaid loan is an undisclosed income and the respondents-assessee is liable to pay tax on the said amount. The Assessing Officer of Gurdip Singh Bath framed his assessment wherein no objection with respect to the money advanced by him was raised. Despite acceptance of financial activities of Gurdip Singh Bath, the Assessing Officer made addition of the aforesaid loan amount in the hands of the respondent-assessee. The matter reached to the Appellate Tribunal because the first Appellate Authority accepted contention of the respondent-assessee and dropped the demand. The Appellate Tribunal vide order dated 27.04.2023 dropped the proceedings against the respondent-assessee. The relevant extracts of the order dated 27.04.2023 passed by the Appellate Tribunal are reproduced hereinbelow:-

> *"6. During appeal hearing the ld. AR filed written submissions which are kept in record. The ld.AR first invited our attention in appeal order page number 19. The relevant paragraph is extracted as follows: -*
>
> > *"It is further mentioned that of late the assessment in the case of Sh.Gurdip Singh Bath was completed vide order dated 17.04.2021 passed u/s 153A r.w.s. 143(3) and thus having accepted the source of income in the hands of Sh.*

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Gurdip Singh, the lender, the addition made in the case of the assessee does not survive anymore and filed a copy of the assessment order dated 17.04.2021 in the case of Sh. Gurdip Bath for Assessment Year 2015-16. The AR was asked to file the documents showing money trial in respect of the loan received by the assessee and it is seen that the amount of Rs. 4,97,50,000/- was received by the assessee from the bank account of Sh. Gurdip Singh Bath on 09.04.2014 from his NRE bank account number 0173000505268902 with Punjab National Bank and the funds in the bank account of Sh. Gurdip Singh Bath were foreign remittances and hence the arguments of the AR has merits that the assessee could not have introduced its own income generated through undisclosed transactions in India. In view of the above, the arguments of the AR are found acceptable that once receipt of the loan by the assessee from the bank account of Sh. Gurdip Bath is on record and the assessment of Sh. Gurdip Bath was also completed by the AO u/s 153A but no adverse inference has been drawn for the source of loan given to the assessee, then the addition made by the AO u/s 68 in respect of receipt of loan from Sh. Gurdip Singh Bath amounting to Rs. 4,97,50,000/- is not justifiable. Under these facts & the circumstances of the case, the addition made by the AO on account of loan from Sh. Gurdip Singh Bath is not found sustainable and hence deleted. Accordingly, these grounds of appeal are allowed."

*7. The ld. AO mentioned that the bank accounts of the loan creditor are annexed in **APB Page 4- 9**. The attention was also called for in the assessment order, dated 17/04/2021, passed U/s 153Ar.w.s. 143(3) of the Act of loan creditor which is annexed in **APB, page 10-11**. In the said assessment order, the revenue has not made any addition and the return income of the assessee is accepted. So, the credentialism related to the investment in*

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assessee-company is not in doubt as per the assessment order of loan creditor.

8. We heard the rival submission and consider the documents available on the record. The addition was confirmed due to the doubt on the creditworthiness of the loan creditor, Mr. Gurdip Singh Bath. There is no dispute in transaction and in the identity of the loan creditor. The loan creditor himself NRI the transaction with the assessee-company was done through bank in convertible foreign exchange. The relevant certificates from bankers and bank statements are also placed before bench, in ***APB, page 8-9****. The doubt about the creditworthiness is also cleaned up by the order of the revenue related to the loan creditor, dated 17- 04-2021. The transaction and creditworthiness of lone creditor are beyond doubt as per the order of the revenue. The ld. DR has not made any objection about the submission of assessee. We find that there is no infirmity in the order of appeal. Accordingly, the ground of the revenue is dismissed."*

5. Mr. Saurabh Kapoor, learned senior standing counsel appearing for the respondent, on being confronted with the findings of the Income Tax Appellate Tribunal to the effect that no adverse order has been passed against Gurdip Singh Bath from whom the respondents-assessees have borrowed the said amount expressed his inability to controvert the findings of the Tribunal.

6. We do not find any factual or legal infirmity in the impugned order passed by the Tribunal. We further do not find any question of law much less substantial question of law arising out of impugned order. Thus, both the appeals are liable to be dismissed and accordingly dismissed.

(SHEEL NAGU)
CHIEF JUSTICE

(JAGMOHAN BANSAL)
JUDGE

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Whether speaking/reasoned	√Yes/No
Whether reportable	√Yes/No

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