**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

123

**ITA-111-2024 (O&M)
Decided on : 04.12.2024**

Principal Commissioner of Income Tax-1, Amritsar
. . . Appellant(s)

Versus

M/s Gobind Dham Renewable Energy Pvt. Ltd.
. . . Respondent(s)

**CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MR. JUSTICE SANJAY VASHISTH**

PRESENT: Ms. Urvashi Dhugga, Sr. Standing Counsel
for the appellant(s).

****

<u>SANJEEV PRAKASH SHARMA, J. (Oral)</u>

1. The appeal is being preferred against the order passed by the ITAT assailing the findings of the ITAT, whereby, it has reached to the conclusion that the credit worthiness and genuineness of the transactions by the party namely; M/s Beas Renewable Energy Private Limited (BREPL), which had advanced a sum to the assessee stands not proved. The findings of fact arrived at by the ITAT are as under:-

> *"7.1 The assessee has already shifted its burden of proof by submitting the income tax return financial report of the loan creditor. We respectfully relied on the order of **Gaurav Triyugi Singh** (supra) and **Amravati Infrastructures Pvt. Ltd.** (supra). The revenue has respectfully relied on **NRA Iron & Steel Pvt. Ltd.** (supra). We respectfully considered the order of **NRA Iron & Steel Pvt. Ltd.** (supra) which is not factually similar with the assessee's case related to creditworthiness of the party. In assessee's case the issue is well placed before the revenue authorities related to source of source. In our considered view the assessee submitted PAN, returns of income, audited financial statements, transactions through banking channels. The ld. AR invited our attention to the*

respective identify and payment of the share applicants to show that each of transaction with party, BREPL is genuine to make investment in the assessee-company. Referring to the respective bank statements, it was further pointed out that the transactions were conducted through proper banking channel and that there were no cash deposits in any of the bank account of the share applicants. Attention was also invited to the explanation furnished by each of the share applicants regarding their source of funds. It was thus submitted that the fund flow position of the party, BREPL and not the profitability was the decisive criteria to examine the creditworthiness of the creditor."

2. It is settled law that for the purpose of additions under Section 68, for undisclosed credit, the concerned assessee has to satisfy the identity of the party to the banking transactions, filing of the Income Tax Returns and credit worthiness. The DR as well as the appellant here do not raise objections regarding the genuineness of the identity of the party of the banking transactions and of filing of Income Tax Returns to submit that the credit worthiness of the concerned party namely; BREPL was doubtful.

3. Learned counsel has attempted to take us to the order passed by CIT, wherein, he has doubted the credit worthiness of the BREPL. However, the ITAT after taking into consideration of the facts, reached to the conclusion as under:-

"From the details as aforesaid which emerges from the paper book filed before us as well as before the revenue authorities, it is vivid that the loan creditor is

(i) income tax assessee and had filed its return of income. ***APB, pages 1-3***

(ii) containing financial statement is duly Audited. ***APB pages 4-20***

(iii) made all transaction through banking channel, ***APB pages***

24-31

(iv) *having substantial creditworthiness which is represented by a capital and reserve as noted above.*

(v) *successfully placed the details, PAN, Aadhar number & Bank A/c of the share applicant of the BREPL as source of its investment.* ***APB page -32.***

(vi) *able to prove the source of source related the loan invested to assessee.*

The ld. DR was not able to place any contrary fact against the submission of the assessee. Considering above, we set aside the appeal order. The addition U/s 68 of the Act amount to Rs.15.44 Crore is quashed. The appeal of the assessee is succeeded."

4. The aforesaid findings are pure findings of fact, which are not required to be examined by us in appeal. No question of law is found to be made out.

5. Dismissed.

Misc. application(s), if any, also stands disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

(SANJAY VASHISTH)
JUDGE

December 04, 2024
J.Ram

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No