

No addition of Share Application Money be made if enquiries conducted have not been confronted to Assessee: ITAT deletes addition of Rs. 36 Cr against Bhushan Group

Fact of the Case

- In the instant case Sur Buildcon, BBN Transportation, and Goldstar Cement is the assessee who filed their objections against the issuance of notice u/s 148 of the Act by citing the non-existence of any live link or causal nexus between the information on record and the reason to believe that the income of the assessee had escaped assessment
- The objections of the assessee were, however, rejected by the AO. During the course of reassessment proceedings, certain documents evidencing the identity, genuineness, and creditworthiness of the share capital and share premium received were furnished before the AO by the assessee in response to the notice(s) issued under section 142(1) of the Act.
- The A.O., thereafter, identically observed in the cases of all three assessee that “the creditworthiness of the investors is not established as all the investors are showing nominal income. Neither the investor company and nor the assessee company has produced any proof to substantiate the creditworthiness of the investors (for the example balance sheet of the investor company). The genuineness of the transaction is also in doubt.”
- The assessee submitted that all the documents establishing the identity, genuineness, and creditworthiness of the transactions had been submitted before the A.O. who has failed to refute them in any manner.
- On the other hand, the department contended that the assessee must prove the ingredients of identity, genuineness, and creditworthiness of the credit entries to the satisfaction of the A.O. and, where, if any doubt on the genuineness of the investor companies exists in the mind of the A.O., then even the source of the source must be established,

Decision of the Case

- The coram of Accountant Member Prashant Maharishi and Judicial Member Sudhanshu Shrivastava observed that the identity, genuineness of the transaction and the creditworthiness of the investor companies have been proved by the
- The A.O. has nowhere, in the Assessment Orders, disputed this information/material submitted by the assessee and has merely sought to rely on the Reports prepared by the Inspectors.
- The ITAT deleted the addition of Rs.9,40,00,000; Rs. 9,10,00,000; and 18,00,00,000 against the BBN Transportation Pvt. Ltd, Goldstar Cement Pvt. Ltd., and Sur Buildcon Pvt. Ltd. respectively as it was against the principle of natural justice.
- In a major relief to Sur Buildcon, BBN Transportation, and Goldstar Cement, the Income Tax Appellate Tribunal (ITAT), Delhi bench while deleting the addition of Rs. 36 Crores ruled that the no addition of share application money be made if inquiries conducted have not been confronted to assessee