

Sreeleathers (ITAT 18 OF 2022): Calcutta High Court

Once the assessee submits docs to establish creditworthiness, the onus is on AO to enquire further in the matter: Calcutta HC

Facts:

1. The Assessing Officer (AO) on examination of the assessment records noticed that during the year under consideration the assessee had received unsecured loans from various companies and the names of 13 such companies were furnished and it was alleged that those companies were the “paper companies” having no worth. The assessee was directed to show cause on the said issue in respect of one such company.
2. The assessee informed the AO that all transactions with one of such company namely, M/s. Fast Glow Distributors Pvt. Ltd. were made through banking channels. To establish the identity of the lender the assessee enclosed the copy of their PAN card, the income tax acknowledgement, copy of bank statement, certificate of incorporation, master data from the register of companies.
3. The AO branded the transactions to be accommodation entries and held them to be not real and that the modus operandi adopted by the assessee is typical and prevalent in this part of the country where black-money is being routed under the guise of unsecured loan.

Hon. Calcutta HC held as below:

1. Going by the records placed by the assessee, it could be safely held that the assessee has discharged his initial burden and the burden shifts on the AO to enquire further into the matter which he failed to do.
2. There is no evidence brought on record by the AO to connect the said entry operator with the loan transaction done by the assessee. If the AO, in his opinion, found the explanation offered by the assessee to be not satisfactory, he should have recorded so with reasons, which he failed to do so.

3. The notices which were issued by the AO under Section 133 (6) of the Act to the lenders were duly acknowledged and all the lenders confirmed the loan transactions by filing the documents which were placed before the tribunal in the form of a paper book.

4. The appeal by the Revenue is dismissed.