

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH: 'E' NEW DELHI  
BEFORE SHRI G. D. AGRAWAL, VICE PRESIDENT  
AND  
SMT SUCHITRA KAMBLE, JUDICIAL MEMBER  
I.T.A .No. 2242/DEL/2013  
**(ASSESSMENT YEAR-2003-04)****

Manu Credit India Ltd. 278, Katra Peran Tilak Bazar New Delhi AAACM6920A <b>(APPELLANT)</b>	Vs	ITO Ward-6 (2) New Delhi <b>(RESPONDENT)</b>
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<b>Appellant by</b>	<b>Sh. R. S. Singhvi, CA</b>
<b>Respondent by</b>	<b>Sh. P. Dam Kanunjna, Sr. DR</b>

<b>Date of Hearing</b>	<b>11.04.2016</b>
<b>Date of Pronouncement</b>	<b>25.04.2016</b>

**ORDER**

**PER SUCHITRA KAMBLE, JM**

This appeal is filed by the assessee against the order dated 14/02/2013 passed by the CIT (A)-IX, New Delhi.

2. The grounds of appeal are as follows:

*“1.(i) That CIT(A) was not justified in confirming reassessment u/s 148 without appreciating facts of the case, provisions of law and submission of the appellant.*

- (ii) *That there is no factual or legal basis in assuming jurisdiction u/s 148 as there is no case of any income escaping assessment or any tangible material and recording of satisfaction in the context of provisions of Section 148.*
- 2(i). *That the CIT(A) has erred in law and on the facts of the case in confirming addition u/s 68 of Rs.11,35,000/- in respect of share application money even though assessee has discharged the onus as required under the law.*
- (ii) *That the assessee has placed all the relevant documents on record and discharged the onus in terms of provisions of Section 68 and as such there is no basis for any addition under the law.*
- (iii) *That addition is based on hypothetical without proper appreciation of facts, documents on record and opportunity to the appellant and same is not sustainable under the law.*
3. *That orders of the lower authorities are not justified on facts and same are bad in law.*

3. The assessee is engaged in providing financial services as a non-banking finance company. The return was filed on 29.04.2003 under Section 139(1) declaring income of Rs. 40,510/- on the basis of audited accounts. The return was originally processed u/s. 143(1) vide intimation dated 31.07.2003. Subsequently, Assessing Officer initiated proceedings under Section 148 vide notice dated 22.03.2010 on the basis of information from DIT(Inv.), New Delhi.

4. The investigation wing recorded following reasons:

“Reasons for the belief that income has escaped assessment:

In this case, information has been received from the Director of Income-tax, Investigation), New Delhi that the assessee has received an amount of Rs.11,35,000/- from various parties as follows:

BENEFICIARY'S NAME	BENEFICIARY BANK NAME	BENEFICIARY BANK BRANCH	VALUE OF ENTRY TAKEN	INSTRUMENT NO BY WHICH ENTRY TAKEN	DATE ON WHICH ENTRY TAKEN	NAME OF ACCOUNT HOLDER OF ENTRY GIVING ACCOUNT	BANK FROM WHICH ENTRY GIVEN	BRANCH OF ENTRY GIVING BANK	A.C. NO. ENTRY GIVING ACCOUNT
MANU CREDIT INDIA LTD	UNION BANK	KR MARG	300000	255620	7-Aug-02	CITO GARMENTS (P) LTD	JAILAXMI COOP BANK	FATEHPURI	3324
MANU CREDIT INDIA LTD	UNION BANK	KR MARG	125000	256706	7-Aug-02	ABN ALUMINIUM INDUSTRIES	JAILAXMI COOP BANK	FATEHPURI	2939
MANU CREDIT INDIA LTD	UNION BANK	KR MARG	180000	506193	7-Aug-02	JMK SECURITIES (P) LTD	JAILAXMI COOP BANK	FATEHPURI	3322
MANU CREDIT INDIA LTD	UNION BANK	KR MARG	270000	259072	16-Aug-02	WINSOME PORT FOLIO(P) LTD	JAILAXMI COOP BANK	FATEHPURI	3328
MANU CREDIT INDIA LTD	UNION BANK	KR MARG	260000	511535	16-Aug-02	WFAI IRON & STEEL CO(P) LTD	JAILAXMI COOP BANK	FATEHPURI	3318

The above said instruments are in the nature of accommodation entry, which the assessee has taken after paying unaccounted cash to the accommodation entry giver, who is a known entry operator as per the report of the Investigation Wing. In view of these facts, the alleged transaction is not the bonafide one. Therefore, I have reason to believe that an Income of Rs.11,35,000/- has escaped assessment in the assessment year 2003-04 due to the failure on the part of the assessee to disclose fully and truly all material facts necessary for its assessment so far as this amount is concerned. Therefore, this case is fit for issuing notice u/s 148 of the Income Tax Act, 1961. In this case the assessment was made U/s 143(1), not U/s 143(3) of the I.T. Act, 1961.

I am therefore, satisfied that the said income, on account of accommodation entry worth Rs. 11,35,000/- received by the assessee has escaped assessment and accordingly after recording the above said reasons as laid down under the provisions of Section 148(2) of the Income Tax Act, 1961 notice u/s 148 is being issued.”

The same was annexed at page 16 of the paper book along with Notice under Section 148 dated 22.03.2010 which was at page 15 of the paper book submitted by the Assessee.

5. The CIT(A) confirmed the order of the Assessing Officer by holding that the Assessing Officer had taken pro-active steps to check the genuineness of the transactions.

6. The Ld. AR submitted that there was no independent reasons recorded, as the Assessing Officer provided the reasons citing the information provided by the Director of Income Tax (Investigation), New Delhi and re-opened the assessment proceedings under the false belief that the assessee received accommodation entries on the basis of the report from the investigation wing. The Ld. AR relied upon the decisions of the ITAT New Delhi benches in case of Meenakshi Overseas (P) Ltd. Vs. ITO (ITA No. 3148/Del/2013 dated 22.03.2016) as well as Jurisdiction High Court in case of CIT Vs. G&G Pharma (ITA No.545/2015 dated 08.10.2015).

7. The Ld. DR submitted that the Assessing Officer as well as CIT (A) has passed proper and just orders. The Ld. DR relied upon the judgment of Nova Promoters & Finlease (P) Ltd. 342 ITR 169 (DEL).

8. We have perused all the records and heard both the parties. The Assessing Officer has not given any satisfaction or reason while arriving at the initiation of the re-assessment u/s 147. A perusal of the reasons mentioned hereinabove clearly suggest that there is no application of mind. On careful consideration of rival submissions of both the sides, it is clear that the Assessing Officer recorded reasons on receipt of certain information received from DIT (Inv.)

which are available at page 16 of assessee's paper book. After going through the said reasons recorded it is seen that the Assessing Officer issued notice u/s 147/148 of the Act solely on the basis of information received from the DIT (I). The Assessing Officer simply mentioned factual details in a tabular form, and simply states that the instruments are in the nature of accommodation entry without any further verification, examination or any other exercise. It is relevant to note that the Assessing Officer has not mentioned nature of transaction which was effected for alleged accommodation entry and even without mentioning the date of recording of reasons. Thus, there was no reason to believe that the income had escaped assessment. Therefore, the re-assessment proceedings itself is void ab initio.

9. In result, the appeal is allowed.

**The order is pronounced in the open court on 25<sup>th</sup> of April, 2016.**

**Sd/-  
(G. D. AGRAWAL)  
VICE PRESIDENT**

**Sd/-  
(SUCHITRA KAMBLE)  
JUDICIAL MEMBER**

Dated: 25/04/2016

*R. Naheed \**

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR

## ITAT NEW DELHI

		Date	
1.	Draft dictated on	11/04/2016	PS
2.	Draft placed before author	12/04/2016	PS
3.	Draft proposed & placed before the second member	.2016	JM/AM
4.	Draft discussed/approved by Second Member.		JM/AM
5.	Approved Draft comes to the Sr.PS/PS	27.04.2016	PS/PS
6.	Kept for pronouncement on		PS
7.	File sent to the Bench Clerk	27.04.2016	PS
8.	Date on which file goes to the AR		
9.	Date on which file goes to the Head Clerk.		
10.	Date of dispatch of Order.		