

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES : SMC-II : NEW DELHI

BEFORE SHRI J. SUDHAKAR REDDY, ACCOUNTANT MEMBER

ITA Nos.4064 & 4065/Del/2015
Assessment Years : 2006-07 & 2009-10

Jyotsna Sukumar,
1516, 2nd Floor, Wazinagar,
Kotla Mubarakpur,
Delhi.

Vs. ITO,
Ward-32(4),
New Delhi.

PAN: AMHPS4797H

(Appellant)

(Respondent)

Assessee By : Shri Tarun Rohatgi, CA
Department By : Mrs. Rakhi Vimal, JCIT

Date of Hearing : 13. 08.2015
Date of Pronouncement : 30.10.2015

ORDER

Both these appeals by the assessee are directed against the separate orders of the CIT(A)-XVIII, New Delhi, dated 30.3.2015 for the assessment years 2006-07 and 2009-10.

2. Since the issues involved in these appeals are common, for the sake of convenience, these are heard together and disposed of by this common order.

3. In both the appeals the assessee challenges the assessment as well as the addition made u/s 68 of the Act.

4. I have heard the rival contentions and have perused the material on record. The reasons for reopening of assessment are as follows:-

“ As requested, the reasons for re-opening the case are reproduced as under:-

“ An information has been received from the Investigation Wing, New Delhi through ITO, Ward-32(2), New Delhi that Ms Jyotsna Sukumar, Prop., Bureau of International Conference Services (PAN – AMHPS4797H) has taken accommodation entry in the form of unsecured loan amounting to Rs.5,25,000/- from following parties during the A.Y. 2006-07:

i) Vineet Bansal	Rs.1,25,000/-
ii) Anurag Bansal	Rs.2,00,000/-
iii) Bansal Inhold Ltd.	<u>Rs.2,00,000/-</u>
Total	<u>Rs.5,25,000/-</u>

The information so received has gone through and considered by me. Accordingly, I have reason to believe that the amount of Rs.5,25,000/- has escaped assessment during the F.Y. 2005-2006 relevant to the A.Y. 2006-2007 within the meaning of Section 148 of the Income Tax Act, 1961.”

Your case is fixed for hearing o 01.11.2012.

Yours faithfully,
Sd/-
(S.P. BAXLA)
Income Tax Officer,
Ward-32(4), New Delhi.”

5. The Hon’ble Delhi High Court in the case CIT vs. G & G Pharma India Ltd. in ITA 545/2015 vide judgement dated 8.10.2015, held as under:-

“12. In the present case, after setting out four entries, stated to have been received by the Assessee on a single date i.e. 10th February 2003, from four entities which were termed as accommodation entries, which information was given to him by the Directorate of Investigation, the AO stated: “I have also perused various materials and report from Investigation Wing and on that basis it is evident that the assessee company has introduced its own unaccounted money in its bank account by way of above accommodation entries.” The above conclusion is unhelpful in understanding whether the AO applied his mind to the materials that he talks about particularly since he did not describe what those materials were. Once the date on which the so called accommodation entries were provided is known, it would not have been difficult for the AO, if he had in fact undertaken the exercise, to make a reference to the manner in which those very entries were provided in the accounts of the Assessee, which must have been tendered along with the return, which was filed on 14th November 2004 and was processed under Section 143(3) of the Act. Without forming a prima facie opinion, on the basis of such material, it was not possible for the AO to have simply concluded: “it is evident that the assessee company has introduced its own unaccounted money

in its bank by way of accommodation entries”. In the considered view of the Court, in light of the law explained with sufficient clarity by the Supreme Court in the decisions discussed hereinbefore, the basic requirement that the AO must apply his mind to the materials in order to have reasons to believe that the income of the Assessee escaped assessment is missing in the present case.”

6. Similar is the position of the Hon’ble Delhi High Court in the case of Signatures Hotels Pvt. Ltd. vs. ITO and Another (2011) 338 ITR 51 (Del), Madhu Khosla vs. CIT 368 ITR 165 (Del) and CIT vs. Insecticides (India) Pvt. Ltd., 357 ITR 330 (Del).

7. Respectfully following the propositions laid down in all these cases, I hold that the reopening in both these assessment years are bad in law as there is no application of mind by the AO.

8. In the result, both the appeals of the assessee are allowed.

The order pronounced in the open court on 30.10.2015.

Sd/-

[J.SUDHAKAR REDDY]
ACCOUNTANT MEMBER

Dated, 30th October, 2015.

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Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT (A)
5. DR, ITAT

AR, ITAT, NEW DELHI.