

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'SMC-1' : NEW DELHI

BEFORE SHRI G.C. GUPTA, VICE PRESIDENT

ITA No.2111/Del/2014
Assessment Year : 2005-06

Income Tax Officer,
Ward-8(1),
New Delhi.

(Appellant)

Vs. M/s Shankar Gas & Manufacturing
Co.Pvt.Ltd.,
62, G-11, Sector-15,
Rohini,
New Delhi – 110 085.
PAN : AABCN5053E.
(Respondent)

Appellant by : Shri Amrit Lal, DR.
Respondent by : Shri Rishabh Ostwal, CA.

Date of hearing : 21.09.2015
Date of pronouncement : 05.10.2015

ORDER

This appeal by the Revenue for the assessment year 2005-06 is directed against the order of learned CIT(A)-XI, New Delhi dated 17th January, 2014.

2. The only ground of appeal of the Revenue is as under:-

“On the facts and in the circumstances of the case, the CIT(A) has erred in deleting the additions of Rs.12,01,200/- made by the Assessing Officer on account of accommodation entry.”

3. Learned DR submitted that the creditor party M/s Amit Trading Co. has denied the entry of loan given to the assessee and, therefore, the addition was rightly made by the Assessing Officer. He referred to the relevant portion of the assessment order in support of the case of

the Revenue. He submitted that learned CIT(A) has wrongly held that the action of the Assessing Officer u/s 147 of the Income-tax Act, 1961 was ab-initio void. He relied on the order of the Assessing Officer.

4. Learned counsel for the assessee opposed the submissions of the learned DR. He submitted that the reopening was done in this case u/s 147 of the Act after expiry of four years from the end of the relevant assessment year. He submitted that there was no account of M/s Amit Trading Co. and assessee has never accepted or received any cheque or instrument or cash from this party and therefore, the opinion of DIT(Investigation) was non-existent and the reasons recorded were illegal and could not be sustained. He relied on the order of the learned CIT(A).

5. I have considered the submissions of both the sides and have perused the order of the Assessing Officer and the learned CIT(A). I find that the learned CIT(A) has passed a well-reasoned order on this issue before him. The assessee has been submitting right from the beginning that no such amount was received by it from M/s Amit Trading Co. as an accommodation entry and therefore, the very basis of proceedings u/s 147 of the Act was bad in law. The copy of bank account of the assessee was also filed. Learned CIT(A), after considering the facts of the case, concluded that it is noticed that there was an inherent communication gap while recording proceedings u/s 147 of the Act. Learned CIT(A) has concluded that it is apparent from the record that the Assessing Officer has neither examined the evidence which was supplied by the Investigation Wing of the Department nor applied his mind before arriving at the conclusion that the income has escaped assessment in the hands of the assessee and, therefore, the Assessing Officer's action in initiating proceedings u/s 147 of the Act was ab-initio void. There being no mistake in the order

of the learned CIT(A) on this issue and since the Department could not prove the existence of any credit entry of M/s Amit Trading Co., I hold that there was no mistake in the order of the learned CIT(A) on this issue, which is confirmed and the ground of appeal of the Revenue is dismissed.

6. In the result, the appeal of the Revenue is dismissed.
Decision pronounced in the open Court on 5th October, 2015.

Sd/-
(G.C. GUPTA)
VICE PRESIDENT

VK.

Copy forwarded to: -

1. Appellant : **Income Tax Officer, Ward-8(1), New Delhi.**
2. Respondent : **M/s Shankar Gas & Manufacturing Co.Pvt.Ltd.,
62, G-11, Sector-15, Rohini, New Delhi – 110 085.**
3. CIT
4. CIT(A)
5. DR, ITAT

Assistant Registrar