

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'A-SMC' BENCH,
NEW DELHI

BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER, AND
SHRI KULDIP SINGH, JUDICIAL MEMBER

ITA No. 1586/DEL/2018
[Assessment Year: 2009-10]

Optimed Private Ltd
E - 186 [Basement]
Greater Kailash, Part - 1,
New Delhi

Vs.

The I.T.O
Ward - 19(2)
New Delhi

PAN : AAACO 8620 R

ITA No. 1584/DEL/2018
[Assessment Year: 2009-10]

Olympus Infrastructure Private Ltd
E - 186 [Basement]
Greater Kailash, Part - 1,
New Delhi

Vs.

The I.T.O
Ward - 19(1)
New Delhi

PAN : AAACO 8826 F

[Appellant]

[Respondent]

Date of Hearing : 28.08.2018
Date of Pronouncement : 29 .08.2018

Assessee by : Shri Ajay Mankotia, Adv
Revenue by : Shri D.S. Rawat, Sr.DR

ORDER**PER N.K. BILLAIYA, ACCOUNTANT MEMBER,**

These two appeals by two distinct assesseees are preferred against two separate orders of the Commissioner of Income Tax [Appeals]-7, Noida dated 30.11.2017 pertaining to assessment year 2009-10. Since common grievance is involved in both these appeals, they were heard together for the sake of convenience.

2. The appellants have raised as many as 9 substantive grounds in their respective appeals. Vide Ground No. 7, the appellants have challenged the validity of the assessment framed u/s 148/143(3) of the Income-tax Act, 1961 on the ground that the assessment has been framed on a non-est person.

3. Facts on record show that in ITA No. 1586/DEL/2018, the notice u/s 148 of the Act was issued on 21.03.2016 and in ITA No. 1584/DEL/2018, the notice u/s 148 of the Act was issued on 22.03.2016.

4. Records of the Registrar of Companies have struck off the name of Optimed Private Limited vide order dated 30.01.2013 and the same reads as under:

"GOVERNMENT OF INDIA
MINISTRY OF CORPORATE AFFAIRS

Office of the Registrar of Companies

4th Floor, IFCI Tower, 61, Nehru Place , New Delhi 110019,

Date: 30/01/2013

In the matter of the Companies Act, 1956 and of M/s OPTI MED PRIVATE LIMITED, U74899DL2006PTC144430 This is with respect to your application (Form FTE) dated 23/11/2012 vide SRN B62291059.

Notice is hereby given pursuant to sub section (5) of Section 560 of the Companies Act. 1956, that the name of OPTI MED PRIVATE LIMITED has this day been struck off the Register and the said Company is dissolved.

Rajneesh Kumar Singh Assistant
Registrar of Companies Registrar
of Companies , National Capital
Territory of Delhi and Haryana

Copy forwarded to:

1. The Manager, Government of India Press, Faridabad for publication in Part III Sector 1 of the Gazette of India
2. The Income Tax Officer Company Circle Number"

Mailing Address as per record available in Registrar of Companies office:

OPTI MED PRIVATE LIMITED E 186 GREATER KAILASH I,
NEW DELHI-110048,
Delhi, INDIA."

5. The name of Olympus Infrastructure Pvt Ltd was struck off on 03.12.2013. The order reads as under:

"GOVERNMENT OF INDIA
MINISTRY OF **CORPORATE AFFAIRE**
Office of the Registrar of Companies
4th Floor, IFCI Tower. 61, -Nehru Place, New Delhi - 110019,

Date 03/12/2013

*In the matter of the Companies Act, 1956 and of M/s OLYMPUS
INFRASTRUCTURE PRIVATE LIMITED
U45200DL2006PTC154055*

*This is with respect to your application (Form FTE) dated
03/07/2013 vide SRN B78525938.*

*Notice is hereby given pursuant to sub section (5) of Section 560
of the Companies Act. 1956 that the name of OLYMPUS*

INFRASTRUCTURE PRIVATE LIMITED limited has this day been struck off the Register and the said Company is dissolved.

PREMLAL BHANJURAM MALIK
Deputy Registrar of Companies
Registrar of Companies ,
National Capital Territory of Delhi and Haryana

Copy forwarded to:

- 1. The Manager, Government of India Press, Faridabad for publication in Part III Section 1 of the Gazette of India*
- 2. The income Tax Officer Company Circle Mumbai*

Mailing Address as per record available in Registrar of Companies office:

OLYMPUS INFRASTRUCTURE PRIVATE LIMITED
E-186, BASEMENT,
GREATER KAILASH -1,
NEW DELHI - 1 10048.
Delhi, INDIA"

6. This means that the notices u/s 148 of the Act have been issued on a non est person. In our understanding, no assessment can be framed on a dead person. We are,

therefore, of the considered view that the assessments so farmed in the case of the appellants are bad in law and deserve to be quashed.

7. In the result, the appeals filed by both the assesseees are allowed.

The order is pronounced in the open court on 29.08.2018.

Sd/-

**[KULDIP SINGH]
JUDICIAL MEMBER**

Sd/-

**[N.K. BILLAIYA]
ACCOUNTANT MEMBER**

Dated: 29th August, 2018

VL/

Copy forwarded to:

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

Asst. Registrar,
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr.PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	