

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "C", NEW DELHI
BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER
AND
SHRI L.P. SAHU, ACCOUNTANT MEMBER

	I.T.A. No.2793/DEL/2015	
	A.Y. : 2003-04	
DCIT CIRCLE 7(1), NEW DELHI	VS.	DCM FINANCIAL SERVICES LIMITED, D-7/3, MEZZANINE FLOOR, OKHLA INDUSTRIAL AREA, PHASE-II, NEW DELHI (PAN:AAACD0106F)
(ASSESSEE)		(RESPONDENT)

Revenue by : Smt. Ranu Mukharjee, Sr. DR.
Assessee by : Sh. Sanjay Vohra, CA

ORDER

PER H.S. SIDHU : JM

The Revenue has filed this Appeal against the impugned Order dated 27.2.2015 of the Ld. CIT(A)-3, New Delhi relevant to assessment year 2003-04.

2. The grounds raised in this Appeal read as under:-

1. *Whether on the facts and in the circumstances of the case and in law, Ld. CIT(A) has erred in holding that the notice u/s. 148 of the Act has been issued without jurisdiction and the*

assessment order dated 2.11.2010 passed u/s. 143(3)/147 of the Act is null and void.

2. *The appellant craves to leave, to add, alter or amend any ground of appeal raised above at the time of the hearing.*

3. The brief facts of the case are that the assessee filed its return declaring loss of Rs. 6,41,49,764/- on 2.12.2003. the case of the assessee was processed u/s. 143(1) of the Income Tax Act, 1961 (in Short "Act"). The case of the assessee was selected for scrutiny and notice u/s. 143(2) of the Act was issued and served upon the assessee. In compliance to the notice u/s. 143(2) of the Act, the A.R. for the assessee appeared from time to time and filed the requisite details. The original assessment order u/s. 143(3) dated 14.12.2005 was passed at loss of Rs. 6,30,50,554/- thereby making addition of Rs. 8,60,000/- on account of loss on sale of shares. Later on after recording reasons, Notice u/s. 148 of the Act was issued to the assessee company on 4.9.2009. Vice letter dated 14.10.2010 notice u/s. 142(1) of the Act was issued to assessee company. Assessee filed its reply, which was considered by the AO and he completed the assessment at loss of Rs. 4,43,57,150/- vide order dated 02.11.2010. Aggrieved with the order dated 2.11.2010,

the Assessee appealed before the Ld. CIT(A), who vide his impugned order dated 27.2.2015 has allowed the appeal of the assessee. Against the impugned order, the Revenue is in appeal before us.

4. Ld. Sr. DR relied upon the order of the AO.

5. On the other hand, Ld. Counsel for the assessee relied upon the order of the Ld. CIT(A) and stated that the notice u/s. 148 of the Act has been issued beyond the period of four years from the end of relevant assessment year, hence, the reassessment order dated 2.11.2010 may be quashed and appeal of the Revenue may be dismissed.

6. We have heard both the parties and perused the records. We find that assessee had disclosed the full and true particulars regarding the payment of the interest and the claim of the expenditure in connection with the restructuring scheme at the time of the original assessment. All the material facts regarding the claim of interest and expenditure were disclosed in the notes annexed to the balance sheet for the year ending as on 31.3.2003. We note that the AO made the original order of assessment u/s. 143(3) of the Act on 14.12.2005. The notice u/s. 148 of the Act has been issued beyond the period of four years from the end of the relevant

assessment year. The primary jurisdictional condition for the issue of such a notice has not been satisfied. Therefore, Ld. CIT(A) has rightly held that the notice u/s. 148 of the Act has been issued without jurisdiction and consequently the order of assessment dated 02.11.2010 was declared null and void, which does not need any interference on our part, hence, we uphold the action of the Ld. CIT(A) and reject the ground raised by the Revenue.

7. In the result, the appeal filed by the Revenue stands dismissed.

Order pronounced on 25/10/2018.

Sd/-
[L.P. SAHU]
ACCOUNTANT MEMBER

SD/
[H.S. SIDHU]
JUDICIAL MEMBER

Date 25/10/2018

SRBHATNAGAR

Copy forwarded to: -

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

TRUE COPY

By Order,

Assistant Registrar, ITAT, Delhi Benches