

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH: 'F': NEW DELHI)**

**BEFORE SHRI K.N. CHARY, JUDICIAL MEMBER
AND
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

**ITA No:- 4877/Del/2015
(Assessment Year: 2011-12)**

Aquiss Private Ltd., 30 Community, Centre, Saket, New Delhi-110017	Vs.	Asst. Commissioner of Income Tax, Central Circle 23 (Presently known as CC-32), ARA Centre, Jhandewalan Extn., New Delhi.
PAN No: AAACS0576L		
APPELLANT		RESPONDENT

Assessee by : Shri Amol Sinha, Adv. and
Shri. Ashvini Kumar, Adv.
Revenue by : Smt. Sulekha Verma, CIT(DR),

ORDER

PER: ANADEE NATH MISSHRA, AM

This appeal by the Assessee is filed against the order of Learned Commissioner of Income Tax (Appeals)-30, New Delhi-110055, dated 19.03.2015 for Assessment Year 2011-12. The grounds of appeal are as under:

- The CIT(A)-30 has erred in law as also in the facts and circumstances of the case to hold the assessee company as a bogus /shell /paper/ conduit*

/dummy company created for providing accommodation entries whereas the assessee company is being assessed regularly for the last two decades and the Income Tax Department has been accepting it as a genuine company, and in no assessment other than the present assessment, the Department has ever alleged it of giving any accommodation entries.

2. The CIT(A) -30 has erred in law as also in the facts and circumstances of the case to hold the funds advanced as 'advance against land purchase' as accommodation entry, when the source of these funds in the hands of the assessee company has duly been accepted by the Income Tax Department in the assessments completed u/s 153C of the Income Tax Act, 1961 on 28.03.2013.

3. The CIT(A)-30 has erred in law as also in the facts and circumstances of the case to hold that amount, if any, received on finalization of arbitration award would be taxed in the hands of the assessee " as pr provision of law", when there is no provision of law, as such, which may enable the Department to tax the refund back of one's own money.

3.1 The direction of Ld. CIT(Appeals) that the award, if decided in favour of the assessee, would be taxed in the hands of the assessee, is self contradictory, since at one hand, he gives a clear cut-finding that MOU is a colourable device and that the funds belong to BPTP group companies and in the same breath, he talks of taxing the same funds in the hands of the assessee on the basis of a future even, which may or may not occur.

3.2 The CIT(A)-30 has erred in law as also in the facts and circumstances of the case to pre-decide the issue and give his advance finding on award of arbitration, which is clearly a future event, which may turn out to be in the favour of disfavor of any of the parties to the arbitration.

4. The appellant craves leave to add and alter grounds of appeal at the time of hearing."

(2) At the time of hearing before us, Ld. Counsel for Assessee informed that the assessee did not wish to press this appeal; and that the assessee wished to withdraw

this appeal. The Ld. Commissioner of Income Tax (Departmental Representative) did not object to withdrawal of the appeal by assessee. Accordingly, the appeal is dismissed as withdrawn and not pressed.

(3) In the result, appeal of the assessee is dismissed.

Order pronounced in the open court on 09th day of January, 2019.

Sd/-
(K.N. CHARY)
JUDICIAL MEMBER

Sd/-
(ANADEE NATH MISSHRA)
ACCOUNTANT MEMBER

Dated: 09.01.2019
Pooja/-

Copy forwarded to:

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

ASSISTANT REGISTRAR

ITAT NEW DELHI

Date of dictation	09/01/19
Date on which the typed draft is placed before the dictating Member	09/01/19
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	