

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

Before Sh. N. S. Saini, Accountant Member

ITA No. 6522/Del/2018 : Asstt. Year : 2010-11

Paras Land Developers P. Ltd., C/o RRA Taxindia, D-28, South Extension, Part-I, New Delhi-110049	Vs	Income Tax Officer, Ward-19(1), New Delhi
(APPELLANT)		(RESPONDENT)
PAN No. AADCP8921H		

**Assessee by : Sh. Rakesh Gupta, Adv. &
Sh. Somil Aggarwal, Adv.
Revenue by : Sh. S. L. Anuragi, Sr. DR**

Date of Hearing: 11.04.2019	Date of Pronouncement: 30.04.2019
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ORDER

This is an appeal filed by the assessee against the order of Commissioner of Income Tax (Appeals)-7, New Delhi dated 12.09.2018.

2. The assessee has raised following grounds of appeal:

1) That having regard to the fact and circumstances of the case, Ld. CIT (A) has erred in law and on facts in confirming the action of Ld. AO in framing the impugned reassessment order as the assessment order was passed without complying with the mandatory conditions of section 147 to 151 of the Income Tax Act, 1961 and without recording valid reasons as per law and without obtaining valid approval as per law and in any case reopening of the assessment and framing of the reassessment order was contrary to law.

2) That in any view of the matter and in any case, action of Ld.CIT(A) in confirming the action of Ld. AO in reopening of the impugned assessment u/s 143(3)/147 is bad in law and against the facts and circumstances of the case.

3) That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of the Ld. A.O. in making an addition of Rs.34,00,000/- u/s 68 on account of unsecured loans taken from M/s Prayag India (P) Ltd., and more so without appreciating the material on record & without observing principles of natural justice.

4) That in any case and in any view of the matter, action of Ld. CIT(A) in confirming the addition of Rs.34,00,000/- is bad in law and against the facts and circumstances of case and without considering the material placed on record and by recording incorrect facts and findings.

5) That in any view of the matter and in any case, action of Ld.CIT(A) in confirming the action of Ld. AO that no opportunity to cross examine of the said alleged persons Sh. Deepak Agarwal and Shri Mukesh Agarwal, on the basis of which said addition has been made.

6) That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of Ld. A.O. in passing the impugned order without giving adequate opportunity of being heard.

7) That the appellant craves the leave to add, alter or amend the grounds of appeal at any stage and all the grounds are without prejudice to each other."

3. The grievance of the assessee in ground nos. 1 & 2 of the appeal is that the notice of reopening of assessment issued u/s 148(2) of the Act is bad in law and consequently the impugned reassessment order passed u/s 147 r.w.s. 143(3) of the Act is bad in law.

4. I have heard the rival submissions and perused the orders of lower authorities and material available on record. In the instant case, notice u/s 148 of the Act was issued to the assessee on 30.03.2017 by recording the reasons for reopening of assessment.

The assessee has filed at page nos. 15-16 of the paper book, copy of the reasons of reopening of assessment together with copy of approval form for obtaining approval as per Section 151 of the Act. It was pointed out that the Pr. CIT-7, New Delhi vide order dated 24.03.2017 granted approval for reopening the assessment by stating as under:

"Yes I am satisfied."

5. Therefore, it was argued that the approval granted by the Pr. CIT-7, New Delhi was bad in law as it was granted without due application of mind.

6. On the other hand, the Id. Departmental Representative supported the orders of the lower authorities.

7. I find that the Hon'ble Delhi High Court in the case of Pr. CIT Vs N. C. Cables Ltd. reported in (2017) 98 CCH 10 (Del. HC) has held the mere appending of the expression "approved" says nothing, Commissioner of Income Tax has to record elaborate reasons for agreeing with the noting put up, and at the same time, satisfaction has to be recorded of the given case which can be reflected in the briefest possible manner.

8. I find that the approval was granted by the Pr. CIT-7, New Delhi by noting "Yes I am satisfied" shows that the approval was given in a mechanical manner without recording proper satisfaction after due application of mind. The Hon'ble Delhi High Court in the case of Pr. CIT Vs N. C. Cables Ltd. (supra) has held that mere appending of the expression "approved" says nothing. It is not as if the CIT has to record elaborate reasons for agreeing with the noting put up. At the same time, satisfaction has to be recorded of the given case which can be reflected in the briefest possible manner. In the present case, the exercise

appears to have been ritualistic and formal rather than meaningful, which is the rationale for the safeguard of an approval by a higher ranking officer. For these reasons, the Court is satisfied that the findings by the ITAT cannot be distributed.

9. Respectfully following the above decision, I quash the impugned reassessment order and allow the grounds of appeal of the assessee.

10. In view of our above finding, the other grounds taken by the assessee in this appeal have become merely academic in nature and hence are not adjudicated.

11. In the result, the appeal of the assessee is allowed.

(Order pronounced in the Court on 30th day of April, 2019 at New Delhi)

Sd/-
(N. S. Saini)
Accountant Member

Dated: 30/04/2019

Subodh

Copy forwarded to:

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

ASSISTANT REGISTRAR