

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES 'E', NEW DELHI**

Before Sh. Bhavnesh Saini, Judicial Member

Dr. B. R. R. Kumar, Accountant Member

ITA No. 2118/Del/2017 : Asstt. Year : 2010-11

Addl. CIT, Special Range-7, New Delhi-110002	Vs	M/s Oriflame India Pvt. Ltd. (in respect of erstwhile Silver Oak Laboratories Pvt. Ltd. which has merged w.e.f. April 1, 2011 with the M/s Oriflame India Pvt. Ltd.), Ground Floor, Corporate 1, Plot No. 5, NHCC, Jasola, New Delhi-110076
(APPELLANT)		(RESPONDENT)
PAN No. AAACO0256B		

CO No. 137/Del/2017 : Asstt. Year : 2010-11

M/s Oriflame India Pvt. Ltd. (in respect of erstwhile Silver Oak Laboratories Pvt. Ltd. which has merged w.e.f. April 1, 2011 with the M/s Oriflame India Pvt. Ltd.), Ground Floor, Corporate 1, Plot No. 5, NHCC, Jasola, New Delhi-110076	Vs	Addl. CIT, Special Range-7, New Delhi-110002
(APPELLANT)		(RESPONDENT)
PAN No. AAACO0256B		

Assessee by : None

Revenue by : Ms. Rinku Singh, Sr. DR

Date of Hearing: 11.07.2019

Date of Pronouncement: 12.07.2019

ORDER

Per Dr. B. R. R. Kumar, Accountant Member:

The Revenue has raised the following grounds:

"1. Whether, on the facts and in the circumstances of the case, the Ld. CIT(A) was correct in law in annulling the assessment order in the name of M/s Silver Oak Laboratories Pvt. Ltd. as the entity stood merged with Oriflame India Pvt. Ltd. w.e.f. April 1, 2011, by not holding it as merely a procedural defect."

2. The moot issue to be decided in this appeal is whether the assessment order passed by the AO for the assessment year 2010-11 dated 12.03.2014 in the name of M/s Silver Oak Laboratories Pvt. Ltd. would be legally valid when the company has stood merged with another company w.e.f. April 1, 2011. As per the factual position, the assessee has informed the Assessing Officer that the company M/s Silver Oak Laboratories Pvt. Ltd. has been merged with Oriflame India Pvt. Ltd. by the order of the Hon'ble High Court of Delhi dated 07.11.2011. The assessee has also informed the Assessing Officer to transfer the jurisdiction to the Assessing Officer of Oriflame India Pvt. Ltd. and subsequently, the jurisdiction of the case was transferred by the Directorate of Systems to Circle-13(1).

3. We find that the assessee has duly discharged his duties about the issue of merger of the assessee company to Oriflame India Pvt. Ltd. The Assessing Officer has quite aware of the issue of merger but still choose to complete the assessment in the case of the assessee, which is no longer in existence. To that effect, the assessment has been completed on a non-existing entity. Hence, keeping in view the judgment of Hon'be High Court of Delhi in the case of Spice Infotainment Ltd. Vs CIT (2012) 247 CTR 500, Impsat (Pvt.) Ltd. vs. ITO (2004) 91 ITD 354 (Del.), Hewlett Packard India (P.) Ltd. in ITA No. 4016/Del/2005, Modi Corp. Ltd. Vs JCIT 105 TTJ 303 and ACIT Vs M/s DLF Cyber City Developers Ltd. and the order of the Tribunal in the case of Maruti Suzuki Pvt. Ltd. 72 taxmann 164, we hereby hold that the decision of the Id. CIT(A) in annulling

the assessment completed on a non-existing entity is legally valid.

4. Since, the matter has been adjudicated on the legality of the assessment, any adjudication on the grounds taken up in CO would be infructuous.

5. In the result, the appeal of the Revenue is dismissed.
(Order pronounced in the open Court on 12.07.2019)

Sd/-

(Bhavnes Saini)
Judicial Member

Dated: 12/07/2019

Subodh

Copy forwarded to:

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

Sd/-

(B. R. R. Kumar)
Accountant Member

ASSISTANT REGISTRAR