

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

BEFORE SHRI BHAVNESH SAINI, JUDICIAL MEMBER, AND  
SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER

ITA No. 3156/DEL/2016  
[Assessment Year: 2010-11]

&

ITA No. 3157/DEL/2016  
[Assessment Year: 2011-12]

Pearl Studios Pvt. Ltd  
Flat No. 909, Kailash Building  
K.G. Marg, New Delhi

Vs.

The Dy. C.I.T.  
Central Circle - 13  
New Delhi

PAN: AAFCP 0886 P

[Appellant]

[Respondent]

Date of Hearing : 08.01.2020  
Date of Pronouncement : 09.01.2020

Assessee by : None

Revenue by : Shri Ved Prakash Mishra, Sr. DR

**ORDER**

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

The above two appeals by the assessee are preferred against two separate orders of the Commissioner of Income Tax [Appeals] - 25, New Delhi dated 29.02.2016 pertaining to Assessment Years 2010-11

and 2011-12. Since both these appeals involve common issues, therefore, these are being disposed of by this common order for the sake of convenience and brevity.

2. None appeared on behalf of the assessee despite service of notice. We decided to proceed ex parte.

3. Having heard the ld. DR at length, we have carefully perused the orders of the authorities below.

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4. Briefly stated, the facts of the case in are that search and seizure action u/s 132 of the Income tax Act, 1961 [hereinafter referred to as 'The Act' for short] was conducted on M/s Century Communication Group of cases on 11.03.2011. The assessee was also covered u/s 132 of the Act. Statutory notices were issued and served upon the assessee, in compliance to which, the assessee chose not to file return of income. However, the assessee filed objections vide its letter dated 26.10.2012 in connection with the proceedings.

5. The objections were dismissed by the Assessing Officer vide letter dated 01.11.2012. The assessee once again filed objections vide letter dated 06.11.2012, which were once again rejected by the Assessing Officer on 22.02.2013. Finally, the assessee submitted its return of income on 27.02.2013 declaring total income at Rs. NIL. Detailed questionnaires were issued and served upon the assessee. However, the assessee did not file any reply in response to these questionnaires.

6. The Assessing Officer proceeded to complete assessment as per material available on record and after analysing the seized material/documents, the Assessing Officer found that the entire share capital is hit by provisions of section 68 of the Act and made addition of Rs. 68 crores as unexplained cash credit. The Assessing Officer further found that the assessee has claimed bogus claim of depreciation which was denied and addition of Rs. 17.54 crores was made.

7. As per the seized documents, the Assessing Officer found that the assessee has acquired three properties and no supporting evidences/explanations have made in respect of

acquisition of these properties. Accordingly, addition of Rs. 14.92 crores was made as unexplained investment.

8. The Assessing Officer further noticed that the assessee has booked purchases of assets of Rs. 161.01 crores from various suppliers. Since no bills were produced for verification, the entire purchases of fixed assets were treated as bogus and addition of Rs. 161.01 crores was made.

9. The assessee carried the matter before the Id. CIT(A) but without any success.

10. During the appellate proceedings also, the assessee could not justify the genuineness of the cash credits nor could furnish any evidences in support of its claim of purchases of its assets.

11. While upholding the addition made u/s 68 of the Act, the Id. CIT(A) held as under:

"34.8.2 The above decision of the Hon'ble Delhi High Court has been affirmed by the Hon'ble Supreme Court in Navodaya Castles Pvt. Ltd. vs. CIT (2015) 56 taxmann.com 18 (SC). The Hon'ble

Supreme Court heard the petition of the Assessee, condoned the delay and clearly held in the concluding Para that "We do not see any merit in this special leave petition, which is hereby dismissed."

7.34.8.3 In the instant case, the Appellant Company failed to satisfy the primary requirements ie. the identification of the creditors/ shareholders, creditworthiness of creditors/ shareholder and the genuineness of the transaction, and failed miserably when not the matter was looked into in depth having regard to the human probabilities and normal course of human conduct.

7.34.9 In view of the factual matrix of the case and the Judicial decisions discussed above, it is obvious that the Appellant Company has failed to discharge the onus upon it and hence the claimed Share Capital and Share Premium amounting to Rs.68,00,00,000/- has to be taxed as Unexplained Credits u/s 68 of the Income Tax Act, 1961. Accordingly, the addition made by Ground No. 8 of the Appeal is rejected."

12. Addition of Rs. 14.92 crores as unexplained investment in properties was upheld as under:

"7.35.1 Addition of Rs. 14,92,83,642/-, was made on account of investments in the property bearing Property on 16<sup>th</sup> Floor, Sector-5, Infinity Business Park, Block- EP & GP, Bidhna Nagar, Salt lake city, Kolkatta (8454 Sq. Feet) [Rs.4,20,93,611/-] (b) Property on 16<sup>th</sup> Floor, Sector-5, Infinity Business Park, Block- EP & GP, Bidhna Nagar, Saltlake city, Kolkatta (12,774 Sq. Feet) [Rs.6,36,01,475/-] and (c) Property on 16<sup>th</sup> Floor, Sector-5, Infinity Business Park, Block- EP & GP, Bidhna Nagar, Saltlake city, Kolkatta (8,217 Sq. Feet) [Rs.4,35,88,556/-] totaling (Rs. 14,92,83,642) The Assessee Company did not provide any details or explanations regarding the properties or the investment therein in the Assessment proceeding nor in Appellate proceedings. The Appellant had more than sufficient opportunity, particularly during the appellate proceedings, but the Appellant evaded compliance in the appellate proceedings and no details or explanations regarding the three Properties or the source of investment therein were given. Hence no relief can be allowed to the Appellant on this issue. Accordingly, the additions made towards Unaccounted Investment in the abovementioned three Properties amounting to Rs. 14,92,83,642/- are hereby confirmed. This Ground of Appeal is also rejected."

13. Addition on account of bogus purchases on fixed assets was confirmed as under:

*"7.36.5 During the Appellant proceedings also, the Assessee Company could not justify the claimed Purchases. It is seen that the Assessee Company was required to produce the Books of Account during the Assessment proceedings, but the same were not produced. Even during the Appellate proceedings, the Appellant had more than sufficient opportunity to produce the Books of Account and to justify and prove the genuineness of the claimed Purchases and transactions, but the same was not done. No justification could be given by the Appellant for its claims regarding the Investments made in the Purchases. The additions made are on the basis of the Search & Seizure operation u/s 132 (1) and the enquiries made, which the Appellant has been unable to rebut. The additions made are fully justified on the basis of the facts brought out in the Assessment Order. Nothing could be brought on record in the Appellate proceeding, by the Appellant Company against the addition of Rs 161,01,10,888/-.*

*7.36.6 It has been claimed that the observations of the Ld. Assessing Officer are either factually incorrect or are legally untenable, without specifying whether they are factually incorrect or legally untenable, and that too without any evidence or material in support of the claim of the Appellant. It has also been claimed that the investments in the said*

*Plant & Machinery were duly accounted for/ recorded in the Books of Account and were reflected in the Balance Sheet. If it was so then, the Appellant had more than sufficient opportunity in the Appellate proceedings to present its claim on the basis of such Books of Account and other Documents, evidence, material etc, but the Appellant evaded such opportunity: In view of the facts of the case, no relief can be allowed on this issue and the additions made being fully justified are to be upheld. The addition of the amount of Rs. 161,01,10,888/- is treated as unexplained Investment of the Assessee company is hereby confirmed. The Ground of Appeal No. 10 is rejected."*

14. Since the fixed assets were treated as bogus, denial of depreciation was also confirmed.

15. We have carefully perused the findings of the Id. CIT(A). As mentioned elsewhere, none appeared on behalf of the assessee. Since nothing has been provided to us by the assessee, we decline to interfere with the findings of the Id. CIT(A). Grounds raised by the assessee stand dismissed.

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16. First addition is on account of bogus claim of depreciation. Since in ITA No. 3156/DEL/2016 for A.Y 2010-11 we have confirmed the addition on account of bogus purchases of fixed assets, the claim of depreciation thereon is automatically denied.

17. During the course of scrutiny assessment proceedings, the Assessing Officer noticed that the assessee has claimed depreciation of Rs. 28,22,86,033/-. The assessee was asked to furnish detailed computation of depreciation alongwith date-wise details of additions in fixed assets and produce original bills and challans for verification. On receiving no plausible reply, the Assessing Officer disallowed depreciation of Rs. 6,43,74,650/- and made addition of Rs. 6.43 crores.

18. Proceeding further, the Assessing Officer found that the assessee has not maintained any books of account for the year under consideration. From the perusal of the return of income, the Assessing Officer further found that the assessee has not even got its books of account audited. In the absence of books of account, genuineness of

the expenses claimed at Rs. 115.89 crores could not be verified. The Assessing Officer accordingly, made addition of Rs. 115.89 crores.

19. The assessee carried the matter before the Id. CIT(A) but without any success.

20. We have given thoughtful consideration to the orders of the authorities below. Since in A.Y 2010-11 [supra] we have treated the entire purchases of fixed assets as bogus, there is no question of any allowance of depreciation. In respect of other assets, we find that no supporting evidences have been furnished and, therefore, denial of depreciation is justified.

21. In so far as claim of expenditure is concerned, the onus is upon the assessee to furnish necessary evidences in support of its claim of expenditure. Since no documentary evidences have been furnished, the addition on account of non availability of bills in respect of expenses is confirmed. Accordingly, all the Grounds raised by the assessee stand dismissed.

22. In the result, both the appeals filed by the assessee in ITA No. 3156 & 3157/DEL/2016 are dismissed.

The order is pronounced in the open court on 09.01.2020.

Sd/-

**(BHAVNESH SAINI)**  
**JUDICIAL MEMBER**

Sd/-

**(N. K. BILLAIYA)**  
**ACCOUNTANT MEMBER**

Dated: 09<sup>th</sup> January, 2020.

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	
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