

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

BEFORE SHRI H. S. SIDHU, JUDICIAL MEMBER

I.T.A. No.4573/Del/2018
Assessment Year: 2008-09

M/s Neelkanth Buildestate P. Ltd., vs.
Flat No. D-80, Plot No. 102
Jai Apartments, I.P. Estate
Extension, Delhi
(PAN:AACCN2616C)
(ASSESSEE)

Income Tax Officer,
WARD-13(2) (New ITO,
Ward-18(1), New Delhi

(RESPONDENT)

Assessee by: Shri. Sameer Kapoor, CA
Revenue by: Sh. Manoj Kumar Chopra, Sr. DR.

ORDER

This appeal is filed by the assessee against the Order dated 24.04.2018 passed by the Ld. CIT(A)-36, New Delhi, relating to Assessment Year 2008-09 on the following grounds:-

"1. Whether the Id. CIT(A) has erred in law and circumstances of the case in confirming the assessment proceedings made by Id. AO u/s 147.

2. Whether the Id. CIT(A) has erred in law and circumstances of the case in confirming an addition made by the Id. AO amounting to Rs. 5,00,000/- u/s 68 as an accommodation entry.

3. The assessee may please be allowed the right to add/delete/modify any of the above grounds of appeal at any stage."

2. At the time of hearing, learned counsel for the assessee stated that the Revenue authorities have not given sufficient opportunity to the assessee for substantiating the claim of assessee in spite of the fact that assessee has filed all the documentary evidences before the authorities below. He further stated that assessee is in possession of all the documentary evidences which the assessee has also filed in the shape of

paper book containing page no. 1 to 45 and he requested that the issues in dispute may be set aside to the Assessing Officer to decide the same afresh, as per law, after giving full opportunity of hearing to the assessee for substantiating its claim before the AO. He undertakes that assessee will not take any unnecessary adjournment and will cooperate before the Assessing Officer in the proceedings.

3. The learned DR relied upon the order passed by the Revenue authorities and has not raised any serious objection on the request of the learned counsel for the assessee.

4. After hearing both the parties and perusing the orders passed by the Revenue authorities especially the documentary evidences filed by the assessee in the shape of paper book containing page 1 to 45 in which the assessee has filed the reply dated 12.5.2017, filed before the Assessing Officer, share application form received from M/s Mani Mala Delhi Properties P. Ltd., copy of extract of bank statement of M/s Mani Mala Delhi Properties P. Ltd., copy of Memorandum of Association of M/s Mani Mala Delhi Properties P. Ltd., Copy of Master data of M/s Mani Mala Delhi Properties P. Ltd., copy of Final accounts of M/s Mani Mala Delhi Properties P. Ltd. reflecting investment in the assessee company, reply dated 14.03.2016 to show cause notice by AO and reasons to belief. Learned counsel for the assessee has also given the Certificate that the aforesaid documents were filed before the Assessing Officer as well as learned CIT(A). Keeping in view the request made by the assessee's counsel and the issues involved in the present appeal alongwith the orders passed by the Revenue authorities, I am of the considered view

that assessee is entitled to allow opportunity for substantiating its claim before the Assessing Office. Therefore, in the interest of justice, I am setting aside the issues involved in the present appeal to the Assessing Officer to decide the same afresh, as per law, after giving full opportunity of hearing as well as to produce the documentary evidences before the Assessing Officer.

5. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on 13/01/2020.

Sd/-
[H.S. SIDHU]
JUDICIAL MEMBER

Date: 13/01/2020
SH

Copy forwarded to: -

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

By Order,

Assistant Registrar, ITAT, Delhi Benches