

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

**BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER**

ITA No. 5538 & 5539/DEL/2017  
[Assessment Years: 2006-07 & 2007-08]

M/S SIDHARTHA RUBBER PVT. LTD. T-306, VIKAS CHAMBER D-BLOCK, CENTRAL MARKET, PRASHANT VIHAR, NEW DELHI (PAN: AAICS5291A) [Appellant]	Vs. ITO, WARD 8(3), C.R. BLDG., NEW DELHI  [RESPONDENT]
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Assessee by: NONE

Revenue by : Sh. Sanjog Kapoor, Sr. DR.

**ORDER**

These appeals are filed by the Assessee against the respective orders of the Ld. Commissioner of Income Tax [Appeals]-22, New Delhi both dated 08.06.2017 pertaining to assessment years 2006-07 & 2007-08. Since the issues involved in these appeals are common, hence, the appeals were heard together and for the sake of convenience, I am reproducing the grounds of both the assessment years as under:-

**AY 2006-07**

1. On the facts and circumstances of the case, the Ld. CIT(A) has erred in law in upholding the validity of proceedings u/s. 147 read with section 148 of the Act.
2. On the facts and circumstances of the case, the Ld. CIT(A) has erred in law in upholding the validity of assessment without appreciating the fact that no opportunity of cross examination / material has been provided to the assessee.

3. Without prejudice to the ground no1 above. On the facts and circumstances of the case, the Ld. CIT(A) has erred in law in upholding the addition of Rs. 20 lacs made u/s. 68 of the Act on account of share application money received.
4. Without prejudice to the ground 1 above. On the facts and circumstances of the case, the Ld. CIT(A) has erred in law in upholding the addition of Rs. 50,000/- made u/s. 68 of the Act on account of commission paid.
5. That the appellant craves leave to add, alter or delete the above grounds of appeal at the time of hearing.
6. On facts and circumstances of the case, the Ld. CIT(A) has erred in law in upholding the validity of proceedings

**AY 2007-08**

1. On the facts and circumstances of the case, the Ld. CIT(A) has erred in law in upholding the validity of proceedings u/s. 147 read with section 148 of the Act.
2. On facts and circumstances of the case, the Ld. CIT(A) has erred in law in upholding the validity of assessment ignoring the fact that no statutory notice u/s. 143(2) has been issued by the AO before completion of assessment.
3. On the facts and circumstances of the case, the Ld. CIT(A) has erred in law in upholding the validity of assessment without appreciating the fact that no opportunity of cross examination / material has been provided to the assessee.
4. Without prejudice to the ground no 1 above. On the facts and circumstances of the case, the Ld. CIT(A) has erred in law in upholding the addition of Rs. 20 lacs made u/s. 68 of the Act on account of share application money received.
5. Without prejudice to the ground 1 above. On the facts and circumstances of the case, the Ld. CIT(A) has erred in law

in upholding the addition of Rs. 40,000/- made u/s. 68 of the Act on account of commission paid.

6. That the appellant craves leave to add, alter or delete the above grounds of appeal at the time of hearing.
7. On facts and circumstances of the case, the Ld. CIT(A) has erred in law in upholding the validity of proceedings

2. Facts narrated by the revenue authorities are not disputed, hence, the same are not repeated here for the sake of convenience.

3. In this case, Notice of hearing to the assessee was sent by the Registered AD post, in spite of the same, assessee, nor his authorized representative appeared to prosecute the matter in dispute, nor filed any application for adjournment. Keeping in view the facts and circumstances of the present case and the issue involved in the present Appeal, I am of the view that no useful purpose would be served to issue notice again and again to the assessee, therefore, I am deciding the present appeal exparte qua assessee, after hearing the Ld. DR and perusing the records.

4. I have heard the Ld. DR and perused the orders passed by the revenue authorities alongwith the Written Submissions filed by the Ld. DR and Paper Book filed by the Id. Counsel for the assessee in these two appeals. Ld. Counsel for the assessee has also filed various documentary evidences for substantiating the claim of the assessee. The issue involved in these appeals is relating to addition of Rs. 20 lacs in each appeal on account of accommodation entry. In view of the documentary evidences detected by the Search Party of Investigation Wing, after the prescribed procedure, under the law, the AO made the addition in dispute of Rs. 20 lacs in each case and @2.5% as commission was charged on account of getting the said accommodation entry. In the appeal filed by the assessee against both the assessment orders, the Ld. CIT(A) has adjudicated and decided the issues raised by the assessee in the grounds of appeal in a summary manner and has not discussed any documentary evidences filed

by the assessee meaning thereby the Ld. CIT(A) has passed a non-speaking order which is not sustainable in the eyes of law. Ld. CIT(A) has not perused the assessment record to reply the non-issuance of notice u/s. 143(2) of the Act and Ld. CIT(A) has also not mentioned the reasons recorded and the approval given by the competent authority before issuance of notice u/s. 148 of the Act. Ld. CIT(A) has also not commented that what material is in the possession of the AO before issuance of notices u/s. 148 of the Act. Ld. CIT(A) has also not specifically mentioned about the notice issued and served upon the assessee for production of Directors of the Company from where the assessee has purchased the shares in dispute.

4.1 I have gone through the orders passed by the revenue authorities as well as the paper books filed by the assessee containing pages 1-130 certified by the Ld. AR of the assessee that said documents / information was submitted before the revenue authorities below. I have gone through the documentary evidences filed by the assessee in the shape of paper book dated 19.2.2018 in both the cases and found that the assessee has filed sufficient evidences for substantiating its claim before the authorities below, but the same has not been thoroughly examined by both the authorities below. In my view the impugned order is non-speaking order and is not sustainable in the eyes of law. But keeping in view the sensitiveness of the issue regarding bogus shares application money received by various beneficiaries from the bogus share holders company through commission agents, I am fully convinced that the issue involved in these two appeals require thorough investigation at the level of the Ld. CIT(A) with the clear directions that separate Paper Books filed by the assessee containing pages 1-130 in each case be thoroughly examined and passed a well reasoned and speaking order after seeking the remand report from the AO as required under the law as well as after providing full opportunity of hearing as well as for producing the evidences for substantiating the claim of the assessee. I hold and direct accordingly.

5. In the result, both the Appeals of the Assessee are allowed for statistical purposes.

The order pronounced on 20.01.2020.

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

Dated: 20-01-2020

SRB

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,  
ITAT, New Delhi