

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

**BEFORE SHRI N. K. BILLAIYA, ACCOUNTANT MEMBER
AND
MS SUCHITRA KAMBLE, JUDICIAL MEMBER**

I.T.A. No.6658/Del/2016 (A.Y 2013-14)

(THROUGH VIDEO CONFERENCING)

ACIT Circle-3, Room No. 332, ARA Centre, Jhandewalan Extension, New Delhi (APPELLANT)	Vs	Quality Synthetics Industries Ltd. Room No. 107, Anand Jyoti Building, Netaji Subhash Road, Kolkata AAACQ0508Q (RESPONDENT)
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Appellant by	Smt. Sushma Singh, CIT(DR)
Respondent by	Sh. Ved Jain, adv, Sh. Akshit Goel, CA & Sh. Ashish Goel, CA

Date of Hearing	21.01.2021
Date of Pronouncement	09.02.2021

ORDER

PER SUCHITRA KAMBLE, JM

This appeal is filed by the Revenue against order dated 21/010/2016 passed by CIT(A)-23, New Delhi For Assessment Year 2013-14.

2. The grounds of appeal are as under:-

1. *The order of Ld. CIT (A) is not correct in law and on facts.*
2. *On the facts and circumstances of the case, the CIT(A) has erred in deleting the addition of Rs.6,00,00,000/- made by AO on account of unexplained share application money.*
3. *On the facts and circumstances of the case, the CIT(A) has erred in*

quashing the assessment order passed by AO u/s 153C of the I.T.Act,1961.

4. On the facts and circumstances of the case, the CIT(A) has erred in law in its decision that AO has not given sufficient opportunity to the assessee.”

3. The assessee is a non-banking finance company listed on Stock Exchange Kolkata, and is in the business of Financing and Trading in Shares & Securities Sales Real Estate. It is a group concern of Mauria Group Companies. Search and seizure proceedings u/s 132 of the Income Tax Act, 1961 were conducted in the case of Mayuria Udyog Ltd. and its group concerns and residential/factory premises of partners, Directors and Proprietors of the group on 7/8/2013. The warrant of authorities for search of various residential and business premises were issued on 6/8/2013 and 7/8/2013. During the course of search documents cash jewellery etc. were found and seized. Proceedings u/s 153C in assessee's case was initiated on 31/12/2015 and notice u/s 153C read with Section 153A was issued after recording satisfaction note accordingly. The assessee vide its reply dated 13/01/2016 submitted that in the assessee's case no incriminating document was seized and anything relating to such documents were not intimated to the assessee. Therefore, requested to drop the proceedings u/s 153C of the Act. The assessee again filed objection regarding proceedings u/s 153C of the Act. It was again rebutted on 13/1/2016, the assessee had filed original ITR on 23/09/2013 declaring total income of Rs. 'NIL'. Notice u/s 143(2) was issued on 15/1/2016 which was duly served to the assessee. Notice u/s 142(1) was issued with detailed questionnaire on 31/12/2115. In response to the said notices CA of the assessee appeared from time to time and filed written submissions in response to the various queries raised. The Assessing Officer observed that the assessee company has invested share application money in two companies i. e. M/s Nexus Commo Sales Pvt. Ltd. and M/s Link Wise Marketing Pvt. Ltd. amounting to Rs. 2,99,50,000/- These shares have been further sold by the assessee company to the Kolkata base companies which are

M/s Dew Drops Mercantile Ltd., M/s Sharma Higher Purchase Pvt. Ltd., M/s Pragma Commodities Pvt. Ltd. and M/s Siddheshwari Vyapar Pvt. Ltd. The Assessing Officer called for bank statement of these companies which was submitted before the Assessing Officer. These facts are emerging from the assessment order itself. The Assessing Officer further observed that these companies are merely channels to layers the fund flow ultimately being created into Mauria Group of Companies. The Assessing Officer further observed that whatever amount is credited into the bank accounts gets debited the same day or the next day and every other day, the bank account is left with utmost identical minimum balance. The Assessing Officer from Para 5.2.1 till 5.2.3 mentioned the details of the cash trails. The Assessing Officer in Para 5.3 observed that the Company did not give any share dividend or interest to these share holders. Thus, while giving the final finding the Assessing Officer held that the assessee could not establish the identity, creditworthiness of these parties and the transactions are also not genuine, and hence, made addition of Rs. 6 crore which was introduced as sale of shares from these parties thereby treating the same as unaccounted income of the Companies u/s 68 of the Act.

4. Being aggrieved by the assessment order, the assessee filed appeal before the CIT(A). The CIT(A) allowed the appeal of the assessee on the legal issue as well as on the merits.

5. The Ld. DR submitted that the assessment and the documents belonging to Mauria Group was very much related to the assessee company which is a group company of Mauria Udyog Ltd. The Ld. DR pointed out from page no. 15 of the order of the CIT(A) that the satisfaction was properly recorded. Thus, the Ld. DR submitted that the CIT(A) was not right in quashing the assessment order on this ground. On merit, the Ld. DR submitted that the CIT(A) has not at all considered the observations of the Assessing Officer wherein it is clearly indicated that identity, creditworthiness and the genuineness of the share transaction was not at all established by the assessee relating to those parties.

Thus, the Ld. DR submitted that the order of the CIT(A) be set aside and the assessment order be confirmed.

6. The Ld. AR submitted that no incriminating material was found which was related to the assessee company. From the perusal of the satisfaction note also it can be seen that there was nothing on record which related to the assessee company. Thus, the Ld. AR submitted that the CIT(A) has rightly held that the additions made by the Assessing Officer did not emanate from the seized material and cannot be called as incriminating material within the meaning of Provisions of Section 153A/153C of the Act. Therefore, the CIT(A) has rightly quashed the reassessment order. On merit, the CIT(A) has categorically given the finding that all the details about the transaction relating to purchase and sale of shares of M/s Nexus Commo Sales Pvt. Ltd. and M/s Link Wise Marketing Pvt. Ltd., M/s Dew Drops Mercantile Ltd., M/s Sharma Higher Purchase Pvt. Ltd, M/s Pragma Commodities Pvt. Ltd. and M/s Siddheshwari Vyapar Pvt. Ltd. was before the Assessing Officer . But the same was not taken by the Assessing Officer. The Ld. AR relied upon the order of the CIT(A) most specifically Para 4.2 and the chart reproduced by the CIT(A) related to corresponding payments made/received through banking channels. The Ld. AR relied upon the following orders/decision:-

- i) Mauria Udyog Ltd. (ITA No. 6660/Del/2016 order dated 29.11.2018 Del. Tri.)
- ii) CIT vs. RRJ Securities Ltd. 380 ITR 612 (Del HC)
- iii) PCIT vs. M/s Dreamcity Buildwell Pvt. Ltd. (ITA No. 1152/17 order dated 9.8.2019 Del. HC)
- iv) Kishinchand Chellaram vs. DCIT 125 ITR 713 (SC)

7. We have heard both the parties and perused the material available on record. At the outset from the perusal of the satisfaction note reproduced in the order of the CIT(A) as well as the assessment order, it can be seen that no incriminating material was found in assessee's case which was belonging to the assessee during the search and seizure operation in case of Mauria Group of

cases. Thus, the reassessment u/s 153C is not complied properly. Secondly, though the Ld. DR pointed out that the original return of income was not filed, the same is contrary to the facts mentioned in Para 2 of the assessment order. Thus, at the threshold itself the assessment order passed u/s 153C was rightly quashed by the CIT(A). The CIT(A) has further given the observations on merit which is detailed and the Revenue has not given any contrary factual aspect. Therefore, the appeal of the Revenue is dismissed.

8. In result, the appeal of the Revenue is dismissed.

Order pronounced in the Open Court on this 09th Day of February, 2021

Sd/-
(N. K. BILLAIYA)
ACCOUNTANT MEMBER

Sd/-
(SUCHITRA KAMBLE)
JUDICIAL MEMBER

Dated: 09/02/2021
*R. Naheed **

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI

