

**IN THE INCOME TAX APPELLATE TRIBUNAL
[DELHI BENCH "G": NEW DELHI]**

**BEFORE SHRI N. K. BILLAIYA, ACCOUNTANT MEMBER
A N D
SHRI AMIT SHUKLA, JUDICIAL MEMBER
(Through Video Conferencing)**

ITA. No. 6225/Del/2015
(Assessment Year: 2010-11)

DCIT, Central Circle : 18, New Delhi.	Vs.	M/s. Shushre Securities Pvt. Ltd., 2-D, MIG, DDA Flats, Gulabi Bagh, New Delhi – 110 007. PAN: AAHCS6808G
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A N D

C. O. No. 467/Del/2015
[in ITA. No. 6225/Del/2015]
(Assessment Year: 2010-11)

M/s. Shushre Securities Pvt. Ltd., 2-D, MIG, DDA Flats, Gulabi Bagh, New Delhi – 110 007. PAN: AAHCS6808G	Vs.	DCIT, Central Circle : 18, New Delhi.
(Appellants)		(Respondents)

Assessee by :	Dr. Rakesh Gupta, Adv.; & Shri Deepesh Garg;
Department by :	Shri Umesh Takyar, Sr. DR;
Date of Hearing :	13/12/2021
Date of pronouncement :	13/12/2021

ORDER

PER AMIT SHUKLA, J. M.

1. The aforesaid appeal has been filed by the Revenue and the Cross Objection by the assessee against the order dated

28.09.2015 passed by the Commissioner of Income Tax (Appeals)-27, New Delhi, for the quantum of assessment passed under Section 147 / 143(3) of the Income Tax Act, 1961 (the Act) for assessment year 2010-11.

2. The respective grounds of appeal filed by the Department and the assessee are as under:-

ITA. No. 6225/Del/2015 :

“1. That the Commissioner of Income Tax (Appeals) has erred in law and on facts of the case in deleting Rs. 17,30,166/- which was added to the income of the assessee on account of as unexplained expenditure.

2. That the Commissioner of Income Tax (Appeals) has erred in law and on facts of the case in deleting Rs. 8,17,73,561/-which was added to the income of the assessee on account of as unexplained deposits.

3. That the Commissioner of Income Tax(Appeal) has erred in law and on facts in relying on the submissions filed by the assessee which were inadequate, incomplete, not genuine, not reliable and already rejected by AO during the assessment stage.

4. That the Commissioner of Income Tax (Appeals) has erred in law and on facts by neither conducting her own independent and effective inquiry nor giving a direction as per subsection 4 of section 250, Income Tax Act and ignoring Hon hie Delhi High Court’s judgment in the case of “The Commissioner of Income Tax - II Vs M/s Jansampark Advertising and Marketing (P) Ltd.”

5. (a) The order of the Ld. CIT(Appeals) is erroneous and not tenable in law and on facts.

(b) The appellant craves leave to add, alter or amend any/all of the grounds of appeal before or during the course of the hearing of the appeal. “

C. O. No. 467/Del/2015 :

“1. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of Ld. AO in framing impugned reassessment order and that too without assuming jurisdiction as per law and without complying the mandatory conditions of section 147 to 151 of the Act.

2. That in any case and in any view of the matter, action of Ld. CIT(A)

in confirming the action of Ld. AO in framing impugned reassessment order u/s 147/143(3) is beyond jurisdiction, bad in law and against the facts and circumstances of the case.

3. In any view of the matter and in any case, impugned assessment order could not have been passed under the law, more so when original assessment was annulled. “

3. At the outset, the learned Counsel for the assessee submitted that the legal issue as raised in Cross Objections now stands covered by the decision of the Tribunal in the case of Shreya Infra Developers in ITA. No. 6526 (Del) of 2015 and C. O. No. 468 (Del) of 2015 [order dated 9.08.2021] and in the case of Sam Portfolio Pvt. Ltd. in ITA. No. 6218 (Del) of 2015 and the Cross Objection No. 403 (Del) of 2015.
4. The ld. DR also admitted that the case is covered by the decision of the aforesaid order of the Tribunal on the identical set of facts.
5. The facts in brief are that in this case original assessment was completed on 22.12.2011 at an income of Rs.8,35,17,970/- as against the returned income of Rs.14,229/-. The said assessment included protective addition on account of unexplained deposit of Rs.8,10,13,561/-. Aggrieved with the said assessment order the assessee moved an application under Section 264 of the Act before the Commissioner of Income Tax, Central-II, New Delhi, who vide order dated 25.03.2014 declared the assessment order null and void. Now after the assessment order was declared null and void, the ld. Assessing Officer has re-opened the case under Section 147 of the Act vide notice dated 29.03.2014 on the same issues and thereafter the Assessing Officer again completed the assessment at the same figure of Rs.8,35,17,965/-.

6. The Id. CIT (Appeals) allowed the appeal of the assessee on merits holding that assessee has filed complete details of debits and credits appearing in the bank account and also the details of loan paid and interest earned there from. The assessee has also given entire details of name of the parties, principal amount of loan, interest paid during the year and the tax deducted at source on the interest income etc. The entire credit appearing in the bank account had a clear narration. Thus, on merits he deleted all the additions. Accordingly, the appeal of the assessee was allowed on merits.

7. We find that this Tribunal in the case of Sam Portfolios Pvt. Ltd. vide order dated 20.02.2020 (supra) had considered the same set of facts in related concerns, where Ld. CIT had quashed the original assessment in petition filed u/s 264 and again case was reopened on the same ground u/s 148, and quashed the assessment under Section 147 of the Act. We find that, exactly same reasons recorded were there as have been incorporated in the impugned assessment order. Similarly, the Tribunal in the case Shreya Infra Developers (supra) following the case of Sam Portfolios Pvt. Ltd. (supra) held that the order of the CIT (Appeals) under Section 264 of the Act and notice under Section 148 of the Act has been issued exactly on same reasons recorded for reopening the assessment, therefore, the reassessment order cannot be sustained and same was quashed. Since the Tribunal in two case exactly on same set of facts had quashed the assessment passed under Section 147 of the Act, therefore, respectfully following the same in this case also the assessment order passed by the Assessing Officer under Section 147 of the

Act is quashed. The Cross Objection filed by the assessee is allowed and the appeal filed by the Revenue is dismissed.

Order pronounced in the open court on : 13/12/2021.

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

Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

Dated : 13/12/2021.

MEHTA

Copy forwarded to

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

ASSISTANT REGISTRAR
ITAT, New Delhi.

Date of dictation	13.12.2021
Date on which the typed draft is placed before the dictating member	13.12.2021
Date on which the typed draft is placed before the other member	13.12.2021
Date on which the approved draft comes to the Sr. PS/ PS	13.12.2021
Date on which the fair order is placed before the dictating member for pronouncement	13.12.2021
Date on which the fair order comes back to the Sr. PS/ PS	13.12.2021
Date on which the final order is uploaded on the website of ITAT	13.12.2021
date on which the file goes to the Bench Clerk	13.12.2021
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	

Date of dispatch of the order	
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