

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

**BEFORE SH. R.K. PANDA, ACCOUNTANT MEMBER
AND
SH. N. K. CHOUDHRY, JUDICIAL MEMBER
(THROUGH VIDEO CONFERENCING)**

ITA No.1770/Del/2019
Assessment Year: 2010-11

M/s. Exclusive Agencies Ltd. (Merged with M/s. Akriti Realtech Ltd., now know as M/s. Akriti Global Traders Ltd. Shop No.-E-40, Nehru Ground, Faridabad PAN No.AABCE8492N (APPELLANT)	Vs	DCIT Central Circle-II Faridabad (RESPONDENT)
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Appellant by	None
Respondent by	Shri Harpal Singh Kharb, Sr. DR

Date of hearing:	06/01/2022
Date of Pronouncement:	31/01/2022

ORDER

PER N. K. CHOUDHRY, JM:

This appeal is filed by the Assessee aggrieved by the order dated 30.11.2018 impugned herein passed by the Id. Commissioner of Income Tax (Appeals), New Delhi (hereinafter referred to as 'Id. Commissioner') under Section 250 of the Income Tax Act, 1961 (the Act) for assessment year 2010-11.

2. None appeared at the time of hearing on behalf of the Assessee. Though notices of hearings on dated 02/11/2021 and 06/01/2022 were issued to the Assessee at the declared address in Form No.36, however the same returned to the Registry by postal department with endorsements "Addressee not available" and "Insufficient address". Considering the peculiar facts, we deem it proper to decide the appeal on the basis of material available on record and after hearing the Ld. DR.

3. The facts of the case are that the Assessee deals in building material, grocery item and share and had filed a return of income electronically on 30.09.2010 by declaring of Rs. 3,52,14,808/-. Subsequently after recording the reasons u/s 147 of the Act, the case of the assessee reopened by issuing notice u/s.148 on dated 16.02.2015. In response to notice u/s. 148, the Assessee filed reply dated 24.04.2015 stating that return already filed on 30.09.2010 may be treated as filed in response to notice u/s. 148.

3.1 Thereafter the AO has issued statutory notices 30.04.2015, 14.05.2015 and 08.12.2015, which were duly served upon the Assessee. The Assessee participated in re-assessment proceedings through his representative and furnished various details in support of the income and expenditure shown in P & L accounts, which were placed on record. The Assessing Officer though considered the explanation and details furnished by the assessee but not found convincing and ultimately vide Assessment Order dated 30.03.2016 made the addition of 75,43,090/- u/s 37(1) of the Act and Rs.1,30,400/- u/s 14A of the Act.

4. Aggrieved by the Assessment order dated 30.02.2016 passed by the Assessing Officer, the assessee preferred an appeal before Ld. Commissioner, who vide impugned order, dismissed the appeal of the Assessee, against which the Assessee is before us by way of present appeal .

5. Heard the Id. DR and perused the orders passed by the Authorities below. From the impugned order, we observe that the Assessee before the Id. Commissioner raised 13 grounds of appeal. The Ld. Commissioner while considering ground no. 1 & 2 regarding jurisdiction assumed by the AO u/s 147 of the Act observed *that the reopening was in good faith and not in pretence. Further the belief was reasonable and based on specific information collected during search, survey and post search enquiries. Therefore, held that the ratio laid down in Raymond Woollens Mills Ltd. vs. ITO & others [1999] 236 ITR 34(SC) was not applicable and further held that the jurisdiction assumed by the AO u/s 147 of the Act is just and proper.*

5.1 The Ld. Ld. Commissioner also dealt with ground no. 5 to 6 related to the assessment framed u/s 143(3) and the issue of jurisdiction. The Ld. Commissioner has observed *that appellant has not raised such plea before AO regarding amalgamation of company and failed to bring to the notice of AO that there was no entity as M/s. Exclusive Agencies Ltd. for which the assessment order can be framed. Further observed that in response to notice sent by AO as per Section 139(1) of the Act, the Assessee has duly signed and verified as M/s Exclusive Agencies Ltd. Thus, the Ld. Commissioner found that the appellant did not revise the return u/s 148 in the name of the merged company.*

5.2 In so far as ground no. 7 and 8 raised before the Id. Commissioner regarding the disallowance of Rs. 75,43,090/- which has been claimed as freight charges expenses, the Id. Commissioner observed *that the observation of AO that the assessee company belongs to SRS Group, whereas*

the investigation after search shows that the companies of the group are floated only to show bogus purchases and cartage is also shown only to inflate expenses without there being actual business. Accordingly confirmed the disallowances of Rs. 75,43,090/-. Further LD. Commissioner also affirmed the disallowance of Rs. 1,30,400/- u/s 14A on the ground that the said expense related to the income exempt from tax are not allowable. In the result, the Ld. Commissioner dismissed the appeal by confirming the assessment order.

5.3 The Ld. DR supported the order passed by the Ld. Commissioner and submitted that order under challenge does not suffer any perversity , impropriety or illegality. As observed sufficient opportunities were given to the Assessee, but still the Assessee failed to appear before us and also failed to produce any material to controvert the findings of the Commissioner. Even otherwise from the order passed by the authorities below, we could not find any reason either to substantiate the claim of the assessee with regard to the grounds raised in the present appeal or to interfere with the impugned order. On the contrary, the Ld. AO and also Ld. Commissioner has passed the order by making additions considering the peculiar facts and circumstances of the case which does not call for any interference. Thus, we are inclined not to interfere with the impugned order and therefore the appeal of the assessee deserves to be dismissed.

6. In the result, appeal of the assessee is dismissed.

Order pronounced in the open court on 31.01.2022.

-Sd/-

(R.K. PANDA)
ACCOUNTANT MEMBER
 NEHA / *Binita*

-Sd/-

(N.K. CHOUDHRY)
JUDICIAL MEMBER

Date:-31.01.2022

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI