

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

Before Sh. A. D. Jain, Vice-President

Dr. B. R. R. Kumar, Accountant Member

ITA No. 6657/Del/2016 : Asstt. Year : 2013-14

ITA No. 5569/Del/2016 : Asstt. Year : 2014-15

ACIT, Central Circle-3, New Delhi	Vs	M/s Nexus Commosales Pvt. Ltd., R. No. 107, 1 st Floor, Netaji Subhash Road, Anand Jyoti Building, Kolkata, W.B.-711204
(APPELLANT)		(RESPONDENT)
PAN No. AADCN3744L		

Assessee by : None

Revenue by : Ms. Sarita Kumari, CIT DR

Date of Hearing: 08.02.2022	Date of Pronouncement: 11.03.2022
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ORDER

Per Dr. B. R. R. Kumar, Accountant Member:

The present appeals have been filed by the Revenue against the orders of Id. CIT(A)-23, New Delhi dated 29.08.2016.

2. In ITA No. 5569/Del/2016 for A.Y. 2014-15, following grounds have been raised by the Revenue:

"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. 10,45,00,000/- made by AO on account of unexplained income u/s 69A of the I.T. Act, 1961.

3. On the facts and circumstances of the case, the CIT(A) has erred in deleting the addition of Rs.75,45,451/- made by AO on account of disallowance of interest payment made to non-genuine parties.

4. *On the facts and circumstances of the case, the CIT(A) has erred in deleting the addition of Rs. 1,00,000/- made by AO on account of disallowance of non genuine expenses."*

3. In ITA No. 6657/Del/2016 A.Y. 2013-14, following grounds have been raised by the Revenue:

"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.3,00,00,000/- made by AO on account of cash credit in the form of shares.*

3. *On the facts and circumstances of the case, the CIT(A) has erred in deleting the addition of Rs. 14,97,50,000/- made by AO on account of unexplained share application money.*

4. *On the facts and circumstances of the case, the CIT (A) has erred in deleting the addition of Rs.2,00,000/- made by AO on account of bogus expenses.*

5. *On the facts and circumstances of the case, the Ld. CIT (A) has erred in law in its decision that AO for quashing the assessment order.*

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

4. A search & seizure proceedings u/s 132 of the Income Tax Act, 1961 were conducted in the case of M/s Mauria Udog Ltd. and its group concerns and residential/factory premises of partners, directors and proprietors of the group on 07.08.2013. The assessee filed return of income on 13.09.2014 declaring total income of Rs.1,91,13,794/-.

5. The assessee is a group concerns of Mauria Group of companies. The assessee is engaged in trading of Soya Doc and Cattle Feed. During the year under consideration, the assessee company has received unsecured loans from the Kolkata based companies. The details are as under:

S.No.	Name of the Companies	Loan Amount(in Rs.)	Interest payment
1.	M/s Divya Sacfin Pvt. Ltd.	30,00,000	2,20,438
2.	M/s PCJ Finvestored Pvt. Ltd.	20,00,000	1,44,000
3.	M/s Pragya Commodities Pvt. Ltd.	1,75,00,000	12,67,397
4.	M/s Samrat Finvestors Pvt. Ltd.	2,70,00,000	19,50,534
5.	M/s Sri Narayan Mercatiles Pvt. Ltd.	3,50,00,000	25,32,945
6.	M/s Vicky Fincon Pvt. Ltd.	1,00,00,000	7,10,137
7.	M/s Vidhan Sales Agencies Pvt. Ltd.	1,00,00,000	7,20,000

6. The Assessing Officer after due enquiries made addition of the amount of unsecured loans along with interest holding that the identity, genuineness and creditworthiness of the loan parties has not been proved to the satisfaction.

7. For the A.Y. 2013-14, the assessee received share capital from 8 companies to the tune of Rs.14.97 Crores and the AO made addition on protective basis in the hands of the assessee and in substantive basis in the hands of the 5 original shareholders. Further, the assessee has received an amount of Rs.3 crores from two entities namely, M/s SKP Commotrade and Siddheswari Vypar Ltd.

8. The Id. CIT(A) deleted the addition holding that the AO could not establish the money trail and failed to bring on record any material evidence for his conclusion.

9. We have gone through the order of the Id. CIT(A) and the Assessment Order. We find that the fact of the genuineness of the loan parties has neither proved from the side of the

assessee nor from the part of the revenue in a proper way. Hence, we are of the considered view that no prejudice would be caused for any of the parties and deem it proper to remand the matter to the file of the Assessing Officer to complete the proceedings *denovo* as per the provisions of the Income Tax Act after duly affording an opportunity of the assessee.

10. In the result, the appeals of the Revenue are allowed for statistical purpose.

Order Pronounced in the Open Court on 11/03/2022.

Sd/-

(A. D. Jain)
Vice President

Dated: 11/03/2022

Subodh Kumar, Sr. PS

Copy forwarded to:

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

Sd/-

(Dr. B. R. R. Kumar)
Accountant Member

ASSISTANT REGISTRAR