

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

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

**Sh. Yogesh Kumar US, Judicial Member**

**ITA No. 1942/Del/2017 : Asstt. Year : 2010-11**

ACIT, Central Circle-15, New Delhi	Vs	M/s Logix Soft-Tel Pvt. Ltd., 85, Ground Floor, world Trade Center, Barakhamba Lane, New Delhi
(APPELLANT)		(RESPONDENT)
<b>PAN No. AAACL6201F</b>		

**Assessee by : Sh. V. K. Agarwal, AR  
Revenue by : Ms. Shivani Singh, CIT DR**

<b>Date of Hearing: 21.04.2022</b>	<b>Date of Pronouncement: 18.05.2022</b>
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**ORDER**

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

The present appeal has been filed by the Revenue against the order of Id. CIT(A)-XXVI, New Delhi dated 25.01.2017.

2. Following grounds have been raised by the Revenue:

*"1. On the facts and in the circumstances of the case, the Id. CIT(A) has erred in law in allowing the appeal of the assessee without independently verifying the facts of the case, being a fact finding authority as mandated by the Delhi High Court in the case of CIT vs. Jansampark Advertising.*

*2. On the facts and in the circumstances of the case, the Id. CIT(A) has erred in deleting the addition of Rs.4,88,59,504/- made by the AO on account of suppressed value of sale consideration"*

3. Brief facts relevant to the adjudication of the case are that the original return was filed on 14.10.2010 declaring a total income of Rs.1,38,99,480/-. A search & seizure action u/s

132 of the Income Tax Act, 1961 was conducted by the Investigation Wing of the Income Tax Department on 17.01.2012. Accordingly, notice u/s 153A has been issued to the assessee and the assessment has been completed on 26.03.2014. It is pertinent to mention that the Assessment Year in question before us is not an abated assessment by the virtue of filing of the return on 14.10.2010.

4. The assessment proceedings u/s 153A started with "In the course of pre-search study, it was noticed that....." The assessment completed is undisputedly not based /not without any reference to the material, documents found and seized during the course of search. Hence, by the virtue of settled position of law espoused by now, no addition is warranted in the case of unabated assessment in the absence of seizure of any incriminating materials.

5. Further, we have also gone through the decision of the Id. CIT(A) wherein the various facets of the issue has also been examined. For the sake of ready reference, the order of the Id. CIT(A) is reproduced as under:

*"13. I have considered the facts of the case, the basis of addition made by the AO and the arguments of the AR during assessment as well as reassessment proceedings. It seen that the various facets of transactions of investment made by the appellant company along with Alpha Tiger Cyprus into the share holding of M/s Pasco Software 1 Park Pvt. Ltd. at 31 per cent each and consequential sale of the said share holding to the promoters of M/s Pasco Software 1 Park Pvt. Ltd. namely Sh. Sanjay Passi and Smt. Shalini Passi at loss has been highlighted by the AO being part of the pre-search information gathering/study carried out by investigation wing. It has also been highlighted that the impugned facts created a clear suspicion that sale consideration of the share holding by the*

*appellant company had been suppressed whereas the actual sale consideration should have been Rs.14.28 crores. The AO having highlighted the impugned pre-search study has not brought on record any investigation carried out during the course of search operation or thereafter which could make the impugned suspicion a more fact based issue. It means that nothing was found during the course of search operation in the form of any incriminating document which could support the initial suspicion of under-statement of the sale price of the share holding. The AO has also not highlighted anything in the form of statements recorded during the course of search operation which could support the allegation of suppression of sale price. This means that despite conducting the search operation on the basis of impugned allegation, no evidence could be collected to support the case of the revenue with regard to the under-statement of the sale consideration. Here it is important to appreciate that the facts highlighted in the pre-search study do create an obvious impression that the share holding of the appellant company in M/s Pasco Software 1 Park Pvt. Ltd. could be suppressed as the same share holding had been sold a month later by the promoters namely Sh. Sanjay Passi and Smt. Shalini Passi for a total amount of Rs.46.07 crores. It is a fact that the appellant company along with Alpha Tiger of Cyprus had held their investment for a period of more than 1 year and the moment they divested themselves of the share holding in February 2010, the same asset was sold at a substantial profit. The possibility of such a sudden change in the market situation would normally happen only on account of certain factors which however have not been highlighted by the appellant to support its case. It has been highlighted that there was no progress in the development of IT SEZ on the given plot of land but how the same asset could be valued at Rs. 46.07 crores by M/s Adobe just a month later is a matter of inquiry. It was under the impugned peculiar suspicious circumstances that search had been conducted in the case of the appellant to unearth any evidence but somehow nothing could be found during the course of search operation that could re-inforce the case of the revenue on*

*the issue. In view of the above detailed facts and circumstances of the case, the addition made by the AO could be termed as being based entirely on suspicion and surmises. The same is therefore directed to be deleted."*

6. Since, no infarction of law or facts could be attributed to the order of the Id. CIT(A), we decline to interfere with the decision of the Id. CIT(A) on this issue.

7. In the result, the appeal of the Revenue is dismissed.  
Order Pronounced in the Open Court on 18/05/2022.

Sd/-

**(Yogesh Kumar US)**  
**Judicial Member**

Sd/-

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

**Dated: 18/05/2022**

\*Subodh Kumar, Sr. PS\*

Copy forwarded to:

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

**ASSISTANT REGISTRAR**