

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES "SMC" : DELHI**

BEFORE SHRI ANIL CHATURVEDI, ACCOUNTANT MEMBER

**ITA.No.2675/Del./2019
Assessment Year 2009-10**

Kusum Stock Brokers Pvt. Ltd., Ghaziabad. C/o. Akhilesh Kumar, Advocate, 206-207, Ansal Satyam, RDC, Ghaziabad. PIN : 201 002. PAN : AACCK2556J	vs.	The Income Tax Officer, Ward 1 (3), CGO Complex-II, Hapur Chungi, Ghaziabad.
(Appellant)		(Respondent)

For Assessee :	-None-
For Revenue :	Sh. Om Prakash, Sr. D.R.

Date of Hearing :	15.06.2022
Date of Pronouncement :	23.06.2022

ORDER

PER ANIL CHATURVEDI, A.M.

This appeal by assessee has been directed against the order of the Ld. CIT(A), Muzaffarnagar, dated 27.12.2018 relating to the A.Y. 2009-10.

2. The relevant facts as culled out from the material on record are as under :

2.1. The assessee is a company and it filed its return of income for the A.Y. 2009-10 on 26.09.2009 declaring total income at Rs.92,880/-. The return of income was initially processed under section 143(1) of the I.T. Act, 1961. The A.O. has noted that thereafter an information was received from DGIT (Intelligence and Investigation), New Delhi that the assessee had received unreasonable share premium amounting to Rs.16,00,000/- during the F.Y. 2008-09. On the basis of the information received, notice under section 148 of the I.T. Act, 1961 was issued on 31.03.2014 and served on the assessee. Thereafter, the A.O. issued notice under section 142(1) along with questionnaire, which remain uncomplished with. The A.O. has noted that in response to notice under section 148 of the I.T. Act, 1961 no return of income has been filed by the assessee. The A.O. thereafter passed assessment order under section 147/144 of the I.T. Act, 1961 vide order dated 17.03.2015 determining the total income of the assessee at Rs.16,92,880/-.

2.2. Aggrieved by the order of the A.O. the assessee carried the matter in appeal before the Ld. CIT(A) who vide order dated 27.12.2018 in Appeal No.69/2015-16/GZB dismissed the appeal of assessee.

3. Aggrieved by the order of the Ld. CIT(A), the assessee is now in appeal before the Tribunal by raising the following grounds :

- “1. *Because, the order of learned lower authority is bad in law & against the facts and circumstance of the case.*
2. *Because, Ld. CIT(A), grossly erred in dismissing the ground challenging the validity of the notice u/s 148, which is apparently barred by limitation and also not issued correctly being on non-existing address, with wrong and untenable observation.*
3. *Because, Ld. CIT(A) has further erred in dismissing the ground that, notice is without any valid material or 'reason to believe' sheerly to conduct roving enquiries without any verification of material etc. and without satisfaction about escapement of AO but only as per the direction of superior authority, hence the same is beyond jurisdiction, with wrong and untenable observation.*
3. *Because Ld. CIT(A) failed to consider that order is passed without issuing any notice u/s 143(2) is illegal, when return filed by assessee relied by AO.*
4. *Because Ld. CIT(A) erred in not admitting additional evidences without any valid reason even after confronting the same to Ld. AO.*
5. *Because, without prejudice to above and in alternative on merits, Id. CIT (A) erred in sustaining the addition made without any iota of evidence against the transaction or basis merely on the basis of suspicion that too of some other authority.*

6. *Because Ld. CIT(A) erred in not appreciating that Id. AO firstly conducted unilateral behind the back enquiries even after last date of hearing beside parties claimed to have directly confirmed transaction to AO but such evidences are rejected in the garb of additional evidences without any enquiry from parties.*

Therefore, it is prayed that notice/order under question may kindly be quashed, however only as an alternative it is prayed that addition may be quashed.”

4. The perusal of the case file reveals that the Registry issued several notices to the assessee in the past i.e., on 04.03.2021, 04.06.2021, 20.05.2021, 09.07.2021, 16.09.2021, 29.12.2021 and 24.03.2022 duly intimating the assessee about the date of hearing of the appeal on 22.04.2021, 01.07.2021, 16.09.2021, 21.12.2021, 23.03.2022, 23.03.2022 and 15.06.2022 respectively. On all the above occasions the assessee did not chose to appear before the Tribunal nor any application seeking adjournment was filed. In such a situation, we proceed to dispose of the appeal on merits, after hearing the Ld. D.R.

5. Before us, the Ld. D.R. submitted that that information was received by AO from DGIT (Intelligence and Investigation), New Delhi wherein it was noted that the assessee had received unreasonable share premium amounting to Rs.16,00,000/-

[from Nisha Mercantile Pvt. Ltd., Rs.10,80,000/- and Nisha Abasan Pvt. Ltd., Rs.7,20,000/- the companies based at Kolkata]. The A.O. made enquiries under section 133(6) of the I.T. Act, 1961 about the companies at the address provided by the assessee and the enquiry revealed that those two concerns were bogus. The A.O, therefore, concluded that the assessee has received unreasonable share premium and treated a sum of Rs.16 lakhs as unexplained share premium and bogus. Since out of Rs.18 lakh, a sum of Rs.2 lakhs relates to previous year, the A.O. made an addition of Rs.16 lakhs being the income of the assessee. The Ld. D.R. submitted that when the matter was carried before the Ld. CIT(A), the Ld. CIT(A) after considering the additional evidences furnished by the assessee, the remand report of the A.O. and the reply of the assessee to the remand report, had dismissed the grounds of the assessee on the ground that it had failed to substantiate its claim of receipt of share premium. The Ld. CIT(A), thus, upheld the order of the A.O. The Learned DR thus supported the order of lower authorities.

6. I have heard the Ld. D.R. and perused the material on record. I find that in the instant case the assessee had failed to prove its onus by proving the identity, creditworthiness and genuineness of the transaction in the matter. Therefore, the

lower authorities made the impugned addition. Before the Tribunal also, the assessee neither appeared nor placed any documentary evidence to controvert the findings of lower authorities nor has placed any material to point out any fallacy in the findings of the Ld. CIT(A). I, therefore, find no reason to interfere with the orders of the lower authorities. Accordingly, **I dismiss the appeal of the assessee.**

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

Order pronounced in the open court on 23.06.2022.

Sd/-
[ANIL CHATURVEDI]
ACCOUNTANT MEMBER

Delhi, Dated 23rd June, 2022

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	Ld. CIT(A) concerned
4.	CIT concerned
5.	DR ITAT "SMC" Bench, Delhi
6.	Guard File

//By Order//
Assistant Registrar, ITAT, Delhi Benches,
Delhi.