

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI "SMC" BENCH: NEW DELHI**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER**

**ITA No.2094/Del/2019  
[Assessment Year : 2012-13]**

|  |                        |                                   |
|--|------------------------|-----------------------------------|
| Maruti Rub Plast P.Ltd.,<br>C/o-M.K.Bhatt & Co., 302-<br>Triveni Complex, E-10-12,<br>Jawahar Park, Laxmi Nagar, New<br>Delhi-110092.<br><b>PAN-AAFCM4647P</b> | vs                     | ITO,<br>Ward-16(2),<br>New Delhi. |
| <b>APPELLANT</b>   |                        | <b>RESPONDENT</b>                 |
| <b>Appellant by</b>  | None                   |                                   |
| <b>Respondent by</b>   | Shri Om Parkash, Sr.DR |                                   |
| <b>Date of Hearing</b>   | 11.08.2022             |                                   |
| <b>Date of Pronouncement</b>   | 24.08.2022             |                                   |

**ORDER**

**PER KUL BHARAT, JM :**

The present appeal filed by the assessee for the assessment year 2012-13 is directed against the order of Ld. CIT(A)-6, Delhi dated 21.01.2019.

2. The assessee has raised following ground of appeal:-

1. *"On the facts and circumstances of the case and in law, the CIT (Appeals) has erred in law and on fact in confirming the order of the AO passed under section 147/143(3) of the Act wherein the notice under section 148 issued to the appellant is illegal, void and without jurisdiction and accordingly the assessment order passed on the foundation of such notice is liable to be quashed.*
2. *On the facts and circumstances of the case and in law, the CIT (Appeals) has erred in law and on fact in confirming the order of the AO passed under section 147/143(3) of the Act, ignoring the vital fact that the original assessment under section 143(3) was made on dated 08-01-2015 by the same AO at the assessed income of Rs. 40,890/- where in the issue in relation to the increase in the Share Capital amounting to Rs. 8,25,000/- and increase in the security*

*premium amounting to Rs. 1,11,75,000/- was duly examined which includes the impugned credit of Rs. 10,00,000/- too. Therefore, the reasons so recorded under section 147 are nothing but a change of the opinion, based on the information received from the Investigation wing only, further relates to the already examined issue.*

3. *On the facts and circumstances of the case and in law, the CIT (Appeals) has erred in law and on fact in confirming the order of the AO passed under section 147/143(3) of the Act, confirming the addition made by the AO on account unsecured loan of Rs. 10,00,000/- as alleged unexplained cash credit treating the same as undisclosed income under section 68 of the Act.*

4. *The appellant craves leave to add, alter, modify or delete one or more ground of appeal before or at the time of hearing of appeal.”*

3. At the time of hearing, no one attended the proceedings on behalf of the assessee. It is seen from the records that the hearing of the appeal has been adjourned many times and since 04.02.2021, there was no representation on behalf of the assessee. Notices of hearing were duly sent by the Registry and the notices sent were returned back unserved with remark “left” by the Postal Authority. The assessee has not provided any other address to the Registry as mentioned in Form No.36. Therefore, the appeal of the assessee was taken up for hearing in the absence of the assessee and is being disposed off on the basis of the material available on record.

4. The only effective ground in this appeal is against the sustaining of addition of Rs.10,20,000/- being the share application money received from M/s. I Tech Insurance Brokers Pvt. Ltd.

### **FACTS OF THE CASE**

5. Facts giving rise to the present appeal are that the assessee company filed his return of income declaring total loss of Rs.1,49,545/-. Subsequently,

the case was selected for scrutiny assessment and the assessment was framed u/s 143(3) of the Income Tax Act, 1961 [“the Act”] vide order dated 28.01.2015. Thereafter, the Assessing Officer [“AO”] received certain information from the Investigation Wing and the case of the assessee was re-opened u/s 147 of the Act and a notice u/s 148 of the Act was issued to the assessee. In response thereto, the assessee filed his objections against the reasons for re-opening of the assessment. However, the objections of the assessee were dismissed by the Assessing Authority and he proceeded to frame the assessment u/s 143(3) r.w.s 147 of the Act. Thereby, he made addition of Rs.10,20,000/- i.e. share application money of Rs.10,00,000/- and commission paid thereon for taking such accommodation entry.

6. Aggrieved against this, the assessee preferred appeal before Ld.CIT(A), who after considering the submissions, dismissed the appeal of the assessee and sustained the addition made by the AO.

7. Aggrieved against the order of Ld.CIT(A), the assessee is in appeal before this Tribunal.

8. The assessee through grounds of appeal and the statement of facts filed alongwith appeal memo has assailed the action of the authorities below. It is stated that the original assessment of the assessee was completed u/s 143(3) of the Act on 28.01.2015 at income of Rs.40,890/-. It is further stated that the case was re-opened on the basis of the information received from Investigation Wing of the Department wherein a search and Seizure operation was carried out on Shri Deepak Agarwal and Shri Mukesh Kumar and a large volume of documents were seized, statement were recorded. On perusal of the statement

recorded and documents seized and other material, it was inferred that certain persons were using the services of accommodation entry operators to channelize their own unaccounted money in their regular books of accounts by routing the same through the accounts of accommodation entry providers by paying a commission to these people to the tune of 0.05% to 2%. It was noticed that as per the information, a sum of Rs.10,00,000/- was credited during the Financial year 2012-13 from the account of M/s. I Tech Insurance and Brokers Pvt.Ltd., a company run and controlled by Shri Deepak Agarwal and Shri Mukesh Kumar for providing accommodations entries. Accordingly, the reasons were recorded by the AO and the assessment was made u/s 147 of the Act. It is stated that the assessment was framed in a mechanical manner. It is further stated that during the course of assessment, the Ld.AR for the assessee furnished the requisite documents wherein the credit of Rs.10,00,000/- from M/s. I Tech Insurance and Brokers Pvt.Ltd. was made. It is stated by the assessee that the aforesaid party did not respond to the notice u/s 133(6) of the Act could not *ipso facto* make the assessee liable for addition. It is stated that the assessee provided the requisite documents to explain the transactions.

9. On the other hand, Ld. Sr. DR strongly opposed the grounds of appeal and the statement of facts as submitted by the assessee. He strongly relied upon the orders of the authorities below and submitted that it was incumbent upon the assessee to prove the genuineness of the transaction, identity of the share applicants and creditworthiness of such share applicants. The assessee failed to discharge primary onus to prove these three conditions. Therefore, there is no infirmity into the orders of the authorities below.

10. I have heard the contention of Ld. Sr. DR and perused the material available on record and gone through the orders of the authorities below. The AO made addition on the basis that during the year under consideration, the assessee had received certain share application money from share applicants namely M/s. I Tech Insurance and Brokers Pvt.Ltd.. During the course of assessment proceedings, the assessee issued notice u/s 133(6) of the Act to verify the genuineness of the transaction. However, the notice sent by the AO remained unreplied. The assessee has filed a Paper Book wherein a reply by the share applicant is enclosed at page 40 to 43 of the Paper Book. Thereby, the share applicants filed their income tax return and furnished P&L A/c, computation of income etc. It is seen that the assessee has also filed part of the bank statement. However, it is seen that the balance sheet and computation of P&L A/c filed by the assessee is not commensurate with the investment made by the share applicants. It is also seen that the assessee has not filed the entire balance sheet of the share applicants for the AY 2012-13. In the absence of requisite information, I do not see any reason to interfere in the finding of authorities below, the same is hereby affirmed. Thus, grounds raised by the assessee are dismissed.

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

Order pronounced in the open Court on 24<sup>th</sup> August, 2022.

**Sd/-**

**(KUL BHARAT)  
JUDICIAL MEMBER**

*\* Amit Kumar \**

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT, NEW DELHI