

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

BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER

ITA No.5926/Del/2018
Assessment Year: 2009-10

Shreeji Infotech Pvt. Ltd., C/o- Kapil Goel, Advocate, F-26/124, Sector -7, Rohini, Delhi-110085	Vs.	Income Tax Officer, Ward-23(3), New Delhi
PAN :AAMCS8716N		
(Appellant)		(Respondent)

Appellant by	None
Respondent by	Shri Om Parkash, Sr. DR

Date of hearing	03.08.2022
Date of pronouncement	02.11.2022

ORDER

PER SAKTIJIT DEY, JM:

This is an appeal by the assessee against order dated 23.07.2018 of learned Commissioner of Income-tax (Appeals)-30, New Delhi, for the assessment year 2009-10.

2. When the appeal was called for hearing none appeared on behalf of the assessee. Even, there is no application seeking adjournment. On perusal of record, it is noticed, though, on several occasions earlier the appeal was fixed for hearing,

however, the assessee did not appear in spite of issuance of notice of hearing. In fact, the last notice issued to the assessee by speed post fixing the date of hearing on 3rd August, 2022 was served on the assessee as evidenced by the postal acknowledgment kept on record. The aforesaid facts clearly reveal lack of interest of the assessee in pursuing the appeal. Since, sufficient opportunity of hearing has been granted to the assessee, which it has failed to avail, I proceed to dispose of the appeal ex-parte qua the assessee after hearing learned Departmental Representative and based on the materials available on record.

3. Grounds raised by the assessee are both on the validity of reopening of assessment under section 147 of the Act as well as on the merits of the addition made under section 68 of the Act.

4. Briefly the facts are, the assessee is a resident corporate entity. For the assessment year under disputed, the assessee filed its return of income on 23.03.2010 declaring nil income. Subsequently, in course of a search and seizure operation conducted under section 132 of the Act on 15.03.2012 in the premises of Sh. Aseem Kumar Gupta, Chartered Accountant & group, it was found that share application money received by the assessee from certain entities aggregating to Rs.17,50,000/- was

non-genuine and in the nature of accommodation entries. Based on such information, he reopened the assessment under section 147 of the Act. In course of assessment proceeding, the Assessing Officer confronted the adverse material relating to the share application money and called upon the assessee to prove the genuineness of share application money. As observed by the Assessing Officer, in response to the query raised the assessee submitted its reply with certain documentary evidences. However, the Assessing Officer on verifying the documentary evidences was of the view that the genuineness of share application money could not be established. One of the reasons for coming to such conclusion is, summons issued under section 131 of the Act to the share applicants did not evoke any response. Thus, ultimately, the Assessing Officer treated the share application money of Rs.17,50,000/- as unexplained cash credit under section 68 of the Act. Further, being of the view that the assessee must have paid commission for availing the accommodation entry by way of share application money, he charged commission at the rate of 2% and made a further addition of Rs.35,000/-. Against the assessment order so passed, the assessee preferred an appeal

before learned Commissioner (Appeals). However, the appeal was dismissed.

5. I have considered the submissions of learned Departmental Representative and perused the materials on record. It is evident, the Assessing Officer has tangible material in his possession indicating that the assessee had availed accommodation entry by way of bogus share application money from certain entities created by Sh. Aseem Kumar Gupta, Chartered Accountant & group. That being the factual position emerging on record, reopening of assessment under section 147 of the Act is valid.

6. As regards the merits of the additions made, undisputedly, the assessee could not prove the genuineness of the transaction relating to receipt of share application money. Though, the Assessing Officer made specific query to prove the identity, creditworthiness of the creditors and genuineness of the transaction, the assessee failed to prove them through conclusive evidence. Even, summons issued under section 131 of the Act remained un-complied. Even, before the Tribunal, the assessee has not filed any evidence to controvert the factual finding of the departmental authorities. In the aforesaid view of the matter, I do

not find any reasons to interfere with the decision of learned Commissioner (Appeals). Accordingly, grounds are dismissed.

7. In the result, the appeal is dismissed.

Order pronounced in the open court on 2nd November, 2022

Sd/-
(SAKTIJIT DEY)
JUDICIAL MEMBER

Dated: 2nd November, 2022.

RK/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi