

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

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER &
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

ITA No.6252/Del/2018

[Assessment Year : 2009-10]

Shri Lal Mahal Ltd., B-5, Bhagwan Das Nagar, East Punjabi Bagh, New Delhi-110026. PAN-AAECS5326C	vs	Addl.CIT, Special Range-8, New Delhi.
APPELLANT		RESPONDENT
Appellant by	None	
Respondent by	Shri Abhishek Kumar, Sr.DR	
Date of Hearing	20.12.2022	
Date of Pronouncement	15.02.2023	

ORDER

PER KUL BHARAT, JM :

The present appeal filed by the assessee for the assessment year 2009-10 is directed against the order of Ld. CIT(A)-43, New Delhi dated 24.08.2018.

The assessee has raised following grounds of appeal:-

1. *"On the facts and in the circumstance of the case and in law the CIT(A) was incorrect and unjustified*
 - i. *In dismissing the appeal of the assessee.*
 - ii. *In holding that action taken by the AO u/s 147 was legal and valid.*
 - iii. *In holding that the addition of Rs 49,82,926/- made by the AO u/s 69C has been rightly made.*
 - iv. *In confirming the addition of Rs 49,82,926/- made by the AO.*
 - v. *In holding that the assessee cannot add further grounds of appeal during the appeal proceedings.*

- vi. *In confirming the addition of Rs 49,82,926/- on the basis of a statement recorded behind the back of the assessee even though the person making the statement was not produced before the assessee during assessment proceedings for the purposes of cross examination.*
- vii. *In not following the binding judgment of the Hon'ble Supreme Court in the case of Andaman Timber.*
2. *On the facts and in the circumstance of the case and in law the CIT(A) was incorrect and unjustified in not holding action u/s 147 as illegal and bad in law when the condition necessary as provided in first proviso to section 147 regarding failure to disclose fully and truly all material facts in the reason itself is not satisfied.*
3. *On the facts and in the circumstance of the case and in law the CIT(A) was incorrect and unjustified in not holding initiation of action u/s 147 is illegal and bad in law even when there is no valid issue and valid service of notice u/s 148.*
4. *On the facts and in the circumstance of the case and in law the CIT(A) was incorrect and unjustified in not holding the initiation of action u/s 147 and also issue of notice u/s 148 is illegal and bad in law even when the assessment year involved was given in the notice u/s 148 as 2011-12 whereas the action purposed to be taken was for the assessment year 2009-10.*
5. *On the facts and in the circumstance of the case and in law the CIT(A) was incorrect and unjustified in holding that the assessee had made unexplained expenses liable to be taxed u/s 69C whereas the purchases of the amount of Rs 49,82,926/- have been found to be entered in the books of account which are audited and such purchases have been found to be sold during the same assessment year and also found entered in the Stock Register.*
6. *On the facts and in the circumstance of the case and in law the CIT(A) was incorrect and unjustified in holding that the assessee*

had not made purchase from Tirupati Trading Company even when the audited books of account have not been rejected and no discrepancy found and on the contrary book results have been accepted.

7. *On the facts and in the circumstance of the case and in law the CIT(A) was incorrect and unjustified in not considering the additional grounds of appeal by holding that the additional grounds of appeal cannot be filed at this stage.”*

2. At the time of hearing, no one attended the proceedings on behalf of the assessee. It is seen from the records that no one has been attending the proceedings since 20.10.2021. It is also seen from the records that notice of hearing sent through speed post was returned back unserved by the Postal Authority with the remark “*refused*”. Therefore, the appeal is taken up for hearing in the absence of the assessee and is being disposed off on the basis of written submissions and material available on record.

BRIEF FACTS OF THE CASE

3. Facts giving rise to the present appeal are that return of income was electronically filed on 30.09.2009, declaring a loss of Rs.7,05,37,007/- which was assessed u/s 143(3) of the Income Tax Act, 1961 (“the Act”) at a loss of Rs.6,38,57,040/- on 30.12.2011. Thereafter, the assessment was re-opened u/s 147 of the Act on the basis of escapement of income amounting to Rs.48,22,500/-. The assessment was framed u/s 147/143(3) of the Act vide order dated 26.12.2016. While framing the assessment, the Assessing Officer (“AO”) assessed the income of the assessee at a loss of Rs.5,88,74,110/-. Thus, the AO further reduced the loss claimed by the assessee.

4. Aggrieved against the action of Assessing Authority, the assessee carried the matter before Ld.CIT(A), who after considering the submissions, dismissed the appeal of the assessee.

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

6. At the first sight, it is transpired from the records that the name of assessee is mentioned as "Lal Mahal Ltd." in Form No.36. However, as per letter dated 07.09.2022, the company is now known as "Nutrionex Manufactures Ltd.". Thus, there is change of name/entity of assessee. No step has been taken to amend/rectify the name of the assessee company in Form No.36. Under these facts, the appeal of the assessee being defective hence, dismissed.

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

Order pronounced in the open Court on 15th February, 2023.

Sd/-

(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER

** Amit Kumar **

Copy forwarded to:

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

Sd/-

(KUL BHARAT)
JUDICIAL MEMBER

ASSISTANT REGISTRAR
ITAT, NEW DELHI