

**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. 84/Del/2019 : Asstt. Year : 2014-15

Neobrix Consulting Pvt. Ltd., B-71, Sector-61, Noida, Uttar Pradesh-201301	Vs	DCIT, Central Circle, Noida
(APPELLANT)		(RESPONDENT)
PAN No. AACCI9541B		

Assessee by : None

Revenue by : Ms. Sarita Kumari, CIT DR

Date of Hearing: 05.12.2022

Date of Pronouncement: 24.02.2023

ORDER

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

The present appeal has been filed by the assessee against the order of Id. CIT(A)-IV, Kanpur dated 31.10.2018.

2. Following grounds have been raised by the assessee:

"1. That on the facts of the case and under the law, the Id CIT(A) had erred in not quashing the assessment order which was passed by the Id. AO without issuing a notice u/s 143(2) with the time limit prescribed in the I.T. Act 1961 , while stating that (i) assessment order was passed u/s 143(3); (ii) during assessment proceedings the assessee did not challenge the validity of notice u/s 143(2); and (iii) as per the provision of sec. 292 BB of the I.T. Act 1961, the notice issued by the A.O. is deemed to be valid.

2. That the Id. CIT(A) has erred in not deleting the addition of Rs. 10,00,000/- (representing the loan receiving from Sh. Ravi Goel), which was made by the Id. A.O. while incorrectly stating that the assessee failed to provide the confirmation alongwith the bank statement & ITR and in turn failed to furnish the

identification of person, evidence regarding creditworthiness and genuineness of transaction.

Note: The Id A.O. had admitted in his Remand Report that the desired documents are found available on record.

3. That the Id. CIT(A) has erred in not deleting the addition of Rs. 1,00,00,000/- (representing the loan receiving from Gaursons Promoters Pvt. Ltd.), which was made by the Id. A.O. while incorrectly stating that the assessee failed to provide the confirmation alongwith the bank statement & ITR and in turn failed to furnish the identification of person, evidence regarding creditworthiness and genuineness of transaction.

Note: The id A.O. had admitted in his Remand Report that the desired documents are found available on record.

4. That the Id. CIT(A) has erred in not allowing whole of the expenditure claimed by the Assessee under the head Surrender Charges (which represented the penalty charged by M/s. Gaursons Promoters Private Limited on account of non fulfillment of commitment made by the assessee at the time of underwriting booking of Flats), which was made by the Id A.O. , while incorrectly stating that the assessee did not produce any evidence.

Note: The id A.O. had admitted in his Remand Report that the desired documents are found available on record."

3. A search & seizure operation u/s 132 of the Income Tax Act, 1961 was conducted on 09.10.2013 on the premises of the assessee comprising Shubhkamna Buildtech Pvt. Ltd. Group of cases. The assessee has filed return of income on 29.11.2014 declaring total income of Rs. 1,52,59,880/-. Subsequently, notice u/s 143(2) was issued on 18.12.2015. Again notice u/s 143(2) was issued on 13.01.2016. Notice u/s 142(1) along questionnaire was issued on 25.01.2016.

4. The assessee company is engaged in the business of Commission Agents in the Field of Real Estates. The assessee, during the year, has shown commission received of Rs.12,99,30,066/- and after claiming various expenses total income declared at Rs. 1,52,59,880/-. During assessment proceedings, the assessee furnished necessary details including statement of bank accounts that were looked into verified and discussed.

5. The main grievance of the assessee before us as per the grounds filed is that the AO has admitted in his remand report that all the desired documents are available on record, whereas the same has not been considered by the Id. CIT(A) while adjudicating the issues. Hence, we deem it proper to remand the matter to the file of the Id. CIT(A) to consider the entire record and pass an order *de novo* after giving an opportunity to the assessee.

6. In the result, the appeal of the assessee is allowed for statistical purpose.

Order Pronounced in the Open Court on 24/02/2023.

Sd/-

(Yogesh Kumar US)
Judicial Member

Sd/-

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

Dated: 24/02/2023

Subodh Kumar, Sr. PS

Copy forwarded to:

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

ASSISTANT REGISTRAR