

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'D' NEW DELHI**

**BEFORE SHRI ANIL CHATURVEDI, ACCOUNTANT MEMBER
AND
SHRI N.K. CHOUDHRY, JUDICIAL MEMBER**

**ITA No. 3954/Del/2019
Assessment Year: 2010-11**

Sunjoss Internet Pvt. Ltd. Versus Income-tax Officer,
211, Ansal Bhawan, 16 KG Ward 24(3), New Delhi
Marg, Connaught Place,
New Delhi.

PAN: AAHCS3923N
(Appellant)

(Respondent)

Assessee by: None
Revenue by: Sh.Harpal Singh Kharab,
Ld. Sr. DR

Date of hearing : 20/03/2023
Date of order : 29/03/2023

ORDER

PER N.K. CHOUDHRY, J.M.

This appeal has been preferred by the Assessee/
Appellant herein, against the order dated 05.02.2019,
impugned herein, passed by the learned Commissioner of
Income-tax (Appeals)-8, New Delhi (in short "Ld.
Commissioner"), u/s. 250 of the Income-tax Act, 1961
(in short 'the Act') for the assessment year 2010-11.

2. From the record it reveals that several notices fixing for the dates of hearing including on 20.03.2023, were issued to the Appellant at the address given in Form-36, however, the Appellant neither appeared nor filed any adjournment application. Even the Registry do not have any alternative address of the Appellant. Therefore, in the present circumstances, we are constrained to decide this appeal as ex-parte qua Assessee.

3. In the instant case, the Appellant declared an income at "NIL", by filling its return of income on dated 15.10.2010, which was processed u/s. 143(1) of the Act. Subsequently, the Assessing Officer, on the basis of information received from ADIT (Inv.) Unit 2(1), Delhi to the effects that the Appellant being a beneficiary of accommodation entry provider Shri Pradeep Kumar Jindal and its group companies, observed that the Appellant had received a sum of Rs. 1,27,00,000/- M/s. Reena Plastic Pipes Pvt. Ltd. (Now Madhurnath Infrastructure Pvt. Ltd.) controlled by Shri Pradeep Kumar Jindal, however failed to discharge its onus of providing the identity and creditworthiness of such party. The Assessing Officer therefore made the additions of Rs. 1,27,00,000/- and Rs. 2,54,000/- respectively u/s. 68 of

the Act and on account as commission on the above amount of accommodation entry.

4. The Appellant challenged the said additions by filling appeal before the Id. Commissioner, who vide impugned order dismissed the appeal as ex-parte, but on merits. Being aggrieved by the impugned order, the Appellant is in appeal before us.

5. We have given thoughtful consideration to the orders of the authorities below and the material available on record. It reveals from the impugned order that in the first appellate proceedings also, though the Appellant was afforded more than sufficient opportunities by fixing the case for hearing on various occasions by the Id. Commissioner, however the Assessee either did not appear or made no compliance. Therefore, in the peculiar facts and circumstances, the Id. Commissioner was constrained to decide the appeal as ex-parte but on merit and held *"It is seen from the order of the AO that this is a case of accommodation entry. On merits also, during appellate proceedings, no further*

details have been filed by appellant company, despite allowing opportunity of being heard in that regard, so as to justify its claim that no additions needed to be made in appellant's present case. Therefore on those facts, I have no reason to interfere with the findings of the AO and provide any further relief to appellant in respect of disallowance made by AO. Accordingly, addition of Rs.1,29,54,000/- made by AO, is hereby upheld. Grounds of appeal taken by appellant are dismissed. The other addition of Rs. 2,54,000/- as unexplained expenditure u/s 69C of the I.T. Act, being consequential in nature is also confirmed herewith."

Before us also, no material/evidence was ever produced by the Appellant, neither is available on record to substantiate the grounds raised in this appeal by the Appellant and to controvert the findings of the Id. Authorities below to the effects *"that the Appellant failed to discharge its onus to establish the identity and creditworthiness of the party from whom the amount was received. The Appellant could also not establish the genuineness of the transaction. Therefore, the onus cast upon the Appellant to fulfil the conditions of section 69 of the Act, does not stand discharged."* Consequently, the findings recoded by the Id. Commissioner in the impugned order, does not call for any interference. Accordingly, the impugned order is liable to be affirmed.

6. In the result, the appeal filed by the Appellant stands dismissed.

Order pronounced in the open court on 29/03/2023.

Sd/-

**(ANIL CHATURVEDI)
ACCOUNTANT MEMBER**

Sd/-

**(N.K. CHOUDHRY)
JUDICIAL MEMBER**

*aks/-

Copy forwarded to:

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

Assistant Registrar
ITAT New Delhi

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