

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH : C : DELHI

BEFORE SHRI C.M. GARG, JUDICIAL MEMBER
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER

ITA No.490/Del/2022
Assessment Year: 2012-13

JSR Financial Services Private Limited, House No.2221, Housing Board Colony, Near Tagore Public School, Ballabgarh, Sector-3, Faridabad, Haryana – 121 001.	Vs	ACIT, Circle-1, Faridabad.
--	----	----------------------------------

PAN: AACCCJ6188M

(Appellant)

(Respondent)

Assessee by	:	Ms Mansi Jain, Advocate
Revenue by	:	Shri Anuj Garg, Sr. DR

Date of Hearing	:	15.05.2023
Date of Pronouncement	:	19.05.2023

ORDER

PER M. BALAGANESH, AM:

This appeal in ITA No.490/Del/2022 for AY 2012-13 arises out of the order of the Commissioner of Income Tax (Appeals), Faridabad, [hereinafter referred to as 'Id. CIT(A)', in short] in Appeal No.10614/2018-19 dated 20.03.2020

against the order of assessment passed u/s 147/144 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 20.12.2018 by the Assessing Officer, Circle-I, Faridabad, (hereinafter referred to as 'Id. AO').

2. The main crux of the grounds raised by the assessee could be summarized as under:-

- i) Proper opportunity of being heard not given to the assessee both by the AO as well as by the CIT(A);
- ii) Challenging the validity of reopening u/s 147 of the Act; and
- iii) Challenging the addition made in the sum of Rs.1,05,00,000/- u/s 68 of the Act in respect of share capital received.

3. We have heard the rival submissions and perused the material available on record. The return of income for the assessment year 2012-13 was filed by the assessee company on 29.09.2012 declaring total income at Rs.1,63,910/-. An information was received by the Id. AO vide e-mail dated 08.11.2017 from the Investigation Wing, Delhi, containing the names of certain beneficiary companies receiving cheques as share capital investment through conduit companies controlled and managed by Shri Himanshu Verma during the FY 2011-12. This information came to light during the search conducted in the hands of Shri Himanshu Verma u/s 132 of the Act. During the course of that search, the statements of Shri Himanshu Verma together with various other persons were recorded u/s 132(4) of the Act wherein it got revealed that Shri Himanshu Verma through his entities had been providing accommodation entries in the form of share capital to various companies. The e-mail received on 08.11.2017 contained the name of the assessee company also as one of the beneficiary companies. Accordingly, the assessment for the AY 2012-13 was sought to be reopened by the Id. AO u/s 147 of the Act. Notice u/s 148 of the Act was issued on

29.03.2018. In response thereto, no return had been filed by the assessee. The Id. AO, during the course of reassessment proceedings, sought to examine the veracity of the share capital received by it from the following persons:-

<u>Name</u>	<u>Amount (Rs.)</u>
i. Delbella Township Pvt. Ltd.	25,00,000/-
ii. Mithilanchal Investment & Finance Pvt. Ltd.	25,00,000/-
iii. Shulini Realty Pvt. Ltd.	30,00,000/-
iv. Vertable Township Pvt. Ltd.	25,00,000/-
Total	1,05,00,000/-

4. As no details were furnished by the assessee before the Id. AO to prove the three ingredients of section 68 of the Act in respect of share capital received in the sum of Rs.1,05,00,000/-, the Id. AO proceeded to treat the same as unexplained cash credit u/s 68 of the Act. Even before the Id.CIT(A), none appeared before the Id.CIT(A) and the Id.CIT(A) upheld the action of the Id. AO.

5. Before us, the Id. AR made a statement from the bar that the address of the registered office of the company and the address of the directors were one and the same and that the directors had life threat and had to accordingly leave the said residence. Because of this, none of the notices issued by the lower authorities could be responded to by the assessee. The assessee had stopped broking activity from November, 2015. Moreover, the directors were also jailed in the year 2019. Because of these reasons beyond the control of the assessee, the notices could not be responded to. Accordingly he prayed for setting aside the entire issue to the Id. AO requesting for one more opportunity.

6. Considering the totality of the facts and circumstances of the case, we deem it fit and appropriate, in the interest of justice and fair play, to restore this appeal to the file of the Id. AO for *denovo* adjudication in accordance with the law. The assessee is at liberty to furnish various evidences in support of its contentions. Accordingly, the grounds raised by the assessee are allowed for statistical purposes.

7. In the result, the appeal of the assessee is allowed for statistical purposes only.

Order pronounced in the open court on 19.05.2023

Sd/-

(C.M. GARG)
JUDICIAL MEMBER

Sd/-

(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated: 19th May, 2023.

dk

....

Copy forwarded to:

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

Asstt. Registrar, ITAT, New Delhi