

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

Before Sh. C. M. Garg, Judicial Member

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

ITA No. 5194/Del/2014 : Asstt. Year: 2005-06

M/s Steering Securities & Finance Pvt. Ltd., 1/18B, Asaf Ali Road, New Delhi-110002 (APPELLANT)	Vs	Income Tax Officer, Ward-9(2), New Delhi (RESPONDENT)
PAN No. AAACS3674H		

**Assessee by : Sh. Ashok Kumar Jain, CA
Revenue by : Sh. Anuj Garg, Sr. DR**

Date of Hearing: 06.07.2023

Date of Pronouncement: 25.07.2023

ORDER

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

The present appeal has been filed by assessee against the order of Id. CIT(A)-XII, New Delhi dated 11.08.2014.

2. Following grounds have been raised by the assessee:

"1. That Ld. CIT(A)-XII has erred by confirming the action of Ld AO by re-opening of the assessment by issuing of the notice u/s 148, the AO has recorded the reasons which are not at all related to the case of assessee. The reasons recorded by the AO were of vague and general nature and merely based upon a report from DIT(Investigation). The assessment has illegally been re-opened by issuing notice u/s 148. The Ld. AO has no reason to believe as required u/s 147 of the Income Tax Act. The assessment completed u/s 147/143(3) is bad in law and liable to be quashed.

2. That Ld CIT(A) has erred by not taking the cognizance of the issue that the notice u/s 148 was not served to the appellant in time at his address, raised before Ld. AO. On the basis of this reason the assessment u/s 148/143(3) deserves to be quashed.

3. That Ld CIT(A)-XII has erred in the facts and the circumstances of the case by confirming the addition of Rs.72,00,000/- u/s 68 made by Ld. AO in assessment."

3. The only tangible issue pertains to validity of "Reasons recorded for re-opening" of the case.

4. The reasons recorded are as under:

"Information about entry operators and their beneficiaries of Delhi has been received from the office of the DIT (Inv.) New Delhi along with detailed report giving working of entry operators with a list of beneficiaries. After making inquiries the Addl. Directorate Income Tax, Unit-IV of Investigation in their report has established large amount of tax evasion in the transactions between entry operators and the beneficiaries. It is revealed from the list that the assessee company M/s Steering Securities & Finance Private Limited (termed beneficiary) during the previous year 2004-05 relevant to Assessment Year 2005-06 had taken accommodation entries from persons in mentioned in column 3 as below. The detail of which is mentioned below Attached Annexure "A".

Quantum of amount of such entries received by the assessee company M/s Steering to Securities & Finance Private Limited from entry providing entities as mentioned in column no. 3, received from the Addl. Directorate of Income Tax, Unit-IV, Investigation, New Delhi is Rs. 72,00,000/-. This name of the entry operators has been earlier identified and examine by the Investigation Wing, New Delhi of and goes to conclusively prove that the assessee company i.e. M/s

Steering Securities & Finance Private Limited has received accommodation entry for Rs. 72,00,000/- for the FY 2004-05.

In view of facts stated herein above it is clear that the assessee company managed the above said transactions of accommodation entries out of its income from undisclosed sources for the FY 2004-05. In this case as per records of return receipt register, processing on the ITD application system and also the DCR the returns of the assessee is not found to be filed. But as this case has received beneficiary accommodation entry there. escapement of income and hence it is proposed for assessment of this case under section 147/148 of the I.T. Act, 1961.

In view of above, I have reason to believe that income of Rs. 72,00,000/- escaped assessment within the meanings of the provisions of Section 147 of the Income Tax Act, 1961, therefore, a Notice u/s 148 of the Income Tax Act, 1961 is requested to be issued to the assessee company to assess the income escaped as stated hereinabove. As the period to be reopened exceeds four years and as per records no scrutiny assessment has been done in this case for the AY 2005-06 approval is being sought from the Addl. CIT Range-9, New Delhi as per the provisions of section 151(2) of the Act."

5. The Assessing Officer has mentioned that the assessee has not filed return of income *"In this case as per records of return receipt register, processing on the ITD application system and also the DCR the returns of the assessee is not found to be filed."*

6. Before us, the assessee has submitted the copy of the return filed before the authorities for the relevant Assessment Year vide Ack. No. 9200000650 dated 31.10.2005 having a PAN No. AAACS3674H along with computation of income.

7. From the above, it can be unequivocally assumed that the Assessing Officer has not even examined the return filed by the assessee, hence the reasons recorded were on wrong factual basis before issuing of the notice u/s 148 of the Income Tax Act, 1961. Hence, the notice issued is treated as *void ab initio* leading to the assessment completed based on such notice as legally invalid.

8. In the result, the appeal of the assessee is allowed.
Order Pronounced in the Open Court on 25/07/2023.

Sd/-

(C. M. Garg)
Judicial Member

Sd/-

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

Dated: 25/07/2023

Subodh Kumar, Sr. PS

Copy forwarded to:

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

ASSISTANT REGISTRAR