

आयकर अपीलीय अधिकरण न्यायपीठ रायपुर में।  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
RAIPUR BENCH: RAIPUR**

श्री रवीश सूद , न्यायिक सदस्य, एवं  
श्री अरुण खोडपिया, लेखा सदस्य के समक्ष  
**BEFORE SHRI RAVISH SOOD, JUDICIAL MEMBER AND  
SHRI ARUN KHODPIA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.264/RPR/2022  
निर्धारण वर्ष /Assessment Year: 2009-10

M/s.C.G.Ispat Pvt.Ltd.,  
Mata Vaishnav Devi Bhawan,  
Near Railway Crossing,  
Telghani Naka Chowk, Raipur,  
Chhattisgarh-492 001.

v. The Assistant Commissioner-  
of Income Tax-1(1),  
Raipur.

[PAN: AACCC 4876 B]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by	:	Mr.R.B.Doshi, CA
प्रत्यर्थी की ओर से /Respondent by	:	Mr.Satya Prakash Sharma, Sr.DR
सुनवाई की तारीख/Date of Hearing	:	08.08.2023
घोषणा की तारीख /Date of Pronouncement	:	11.08.2023

**आदेश / O R D E R**

**PER ARUN KHODPIA, ACCOUNTANT MEMBER:**

The captioned appeal is instituted against the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, dated 14.12.2022 for the AY 2009-10 by the assessee.

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**2.** The assessee has raised the following grounds of appeal:

- 1. Ld. CIT(A) erred in confirming the addition of Rs. 25,00,000/- made by AO on account of money received from Dhanshree Oil Trade Pvt. Ltd. The addition made by the AO and confirmed by CIT(A) is arbitrary, baseless, and is not justified. - Rs.7,72,500/-*
- 2. The assumption of jurisdiction, issue of notice u/s.148 and the consequent re-assessment order passed by the AO is illegal and without jurisdiction. Ld. CIT(A) erred in dismissing this ground of appeal.*
- 3. Ld. CIT(A) erred in confirming the addition without appreciating the fact that notice u/s 148 was not served on the appellant. The reassessment order passed is illegal & unsustainable.*
- 4. The initiation of reassessment proceeding by AO is illegal as there was no failure 011 the part of the appellant to disclose fully and truly all material facts. Ld. CIT(A) erred in dismissing this ground of appeal.*
- 5. Without prejudice to above grounds, the order passed by Ld. CIT(A) is illegal and not sustainable inasmuch as it was passed without providing due & proper opportunity of hearing to appellant.*
- 6. The appellant reserves the right to add, amend or modify any of the ground/s of appeal.*

**3.** The brief facts of the case are that the assessee is a company filed its return of income for the AY 2009-10 on 01.10.2009. Assessment was completed u/s.144 of the Income Tax Act, 1961 (in short "the Act") by the AO making additions on account of which were premium receipt of Rs.25 lakhs. Aggrieved with the order of the AO, the assessee preferred an appeal before the Ld.CIT(A), wherein, the assessee raised the issue pertaining to addition of Rs.25 lakhs stating that the addition was made arbitrary, baseless and contrary to the evidences on record. Therefore, the same is not justified. The assessee also challenged the assumption of jurisdiction while issuing notice u/s.148 of the Act. On this issue, the Ld.CIT(A) has observed that the contentions raised by the assessee pertaining to the issues raised, were not acceptable, since the assessee was unable to explain the creditworthiness of the share subscriber and genuineness of the

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transactions. With regard to assumption of jurisdiction u/s.148 of the Act, the Ld.CIT(A) observed that the proceedings initiated by the AO were only after approval from the competent authority. Notices were issued and served giving opportunity of hearing. Therefore, the assessee's objection on this count also not sustainable, with such observations the Ld.CIT(A) dismissed the appeal filed by the assessee.

**4.** Dissatisfied with the verdict of the Ld.CIT(A), now the assessee carried the matter to the ITAT for challenging the decision of the Ld.CIT(A).

**5.** At the outset, the Ld.AR reiterated the observations of the AO & the Ld.CIT(A). The Ld.AR also drew our attention to a letter dated 08.11.2021 requesting adjournment before the Ld.CIT(A), copy of which was placed at Page No.2 of the Paper Book, wherein, Para No.2 of the letter requesting three Annexures mentioned in the assessment order, not provided to the assessee by the AO. Therefore, the assessee was unable to make any comment on contents of such Annexures. It was the contention of the Ld.AR that the Annexures referred to in AO's order in Para No.3.1, Annexure-1, Para No.3.2, Annexures-2 & 3 pertaining to information received from the DDIT, Investigation, having details of various companies of Mr.Vikas Jain and its subsequent investment in various companies which were alleged to be floated for generation of funds and backward integration. The Ld.AR further drew our attention to Para No.2 of the assessment order, which is extract of reasons to believe recorded by the AO u/s.148(2) of the Act. The same is extracted as under:

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2. "As per the report during the course of investigation it came out that Mr. Vikas Jain had floated 23 companies. The directors of these companies were the employees of Vikas Jain. The companies have no business activity and all transactions are to route unaccounted money. The assessee has received funds to the tune of Rs.25,00,000/- from M/s Dhanshree Oil Trade Pvt Ltd which is a concern of Vikas Jain. The entry of Rs.25,00,000/- is routed through a Kolkata based company i.e. J.P. Engineering Corp. (P) Ltd (PAN: AABCJ2340L), Ae-326, Salt Lake City, Ground Floor, Kolkata-700064. Considering the facts and circumstances of the case, I have reasons to believe that income of Rs.25,00,000/- by way of unexplained credit has escaped assessment for the A.Y.2009-10".

**6.** It was the allegation of the Ld.AR that since the Annexures which were base documents for forming a belief against the assessee to represent his case were not provided to the assessee along with the assessment order, even after the request to Ld.CIT(A), the same were not made available to the assessee. It is requested to restore the matter back to the file of the Ld.CIT(A) so that the matter can be adjudicated in light of such Annexures with directions to provide the said annexures which were never provided to the assessee, in absence of which the assessee was unable to offer any comments or its explanations with respect to such information/evidences.

**7.** On the contrary to the submissions of the Ld.AR, the Ld.DR submitted that sufficient opportunities were provided to the assessee by the AO as well as the Ld.CIT(A). Therefore, he placed reliance on the orders of revenue authorities and submitted to sustain the same.

**8.** We have considered the rival contentions perused the material available on records. Under the factual matrix of the present case, we find merit in the contentions of the assessee, that the assessee was not provide with the complete assessment order, wherein certain annexures were referred, based on information in the said annexures the additions were

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made on the assessee. Providing half information and asking explanation on the same is unjustified and against the principle of natural justice, particularly when certain information is used against the assessee but the same was not provided and confronted with it. In view of requests made by the assessee before the Ld CIT(A), which were not honored, the submission of the Id AR found worth considering and under such circumstances, in the interest of substantial justice, we find it appropriate to remit the issues of present appeal back to the files of Ld CIT(A) for fresh adjudication of the issues, with direction to provide complete assessment order including the referred annexure to the assessee . Needless to say, reasonable opportunity of being heard and represent its case, to be granted to the assessee.

9. In the result, appeal filed by the assessee is partly allowed in terms of our observations.

Order pronounced on the 11<sup>th</sup> day of August 2023, in Raipur.

**Sd/-**

(रवीश सूद)

**(RAVISH SOOD)**

**न्यायिक सदस्य/JUDICIAL MEMBER**

**Sd/-**

(अरुण खोडपिया)

**(ARUN KHODPIA)**

**लेखा सदस्य/ACCOUNTANT MEMBER**

रायपुर/Raipur,

दिनांक/Dated: 11<sup>th</sup> August, 2023.

**TLN, Sr.PS (on Tour)**

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. आयकर आयुक्त (अपील) / The CIT(A)-1, Raipur (C.G)

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4. The Pr.CIT-1, Raipur (C.G)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर बेंच, रायपुर /  
The DR, ITAT, Raipur Bench, Raipur.
6. गार्ड फाईल/Guard File

आदेशानुसार / By Order

वरिष्ठ निजी सचिव / Sr. Private Secretary  
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur