

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH: 'B': NEW DELHI)**

**BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER
AND
SHRI ANUBHAV SHARMA JUDICIAL MEMBER**

**ITA No:- 3278/Del/2018
(Assessment Year: 2010-11)**

M/s Crosslink Finlease Pvt. Ltd., New Delhi.	Vs.	Pr. CIT-2, New Delhi.
PAN No: AABCC3727A		
APPELLANT		RESPONDENT

Assessee by : Shri Varun Gupta, CA
Revenue by : Shri T James Singson, CIT(DR)

Date of Hearing : 13.09.2023
Date of Pronouncement : 18.09.2023

ORDER

PER N.K. BILLAIYA, AM

This appeal by the Assessee is preferred against the order of the PCIT-2, New Delhi, dated 28/03/2018 framed U/s 263 of the Act.

2. The sum and substance of grievance of the assessee is that the PCIT erred in assuming jurisdiction U/s 263 of the Act and further erred in holding that the Assessment Order dated 11.02.2016 framed U/s 147 r.w.s. 143(3) of the Act, is not only erroneous but also prejudicial to the interest of the revenue.

3. Representatives of both the sides were heard at length. The case records

carefully perused and the relevant documentary evidences brought on record duly considered in the light of Rule 18(6) of the ITAT Rules.

4. A perusal of the order of PCIT shows that he has assumed jurisdiction by issuing the following Show-cause notice U/s 263 of the Act:



**OFFICE OF THE
Pr. COMMISSIONER OF INCOME TAX-2, DELHI
ROOM NO.394, C.R BUILDING, NEW DELHI
Ph. No. 23370223, Fax No. 23370224**

F. No.: Pr. CIT-2/263/2017-18/3972

Date:20/03/2018

To,

The Principal Officer,
M/s Crosslink Finlease (P) Ltd.
B-1, Kalindi Colony,
New Delhi-110065

Sir/Madam,

Sub: Show cause notice for proceedings u/s 263 of the Income Tax Act, 1961 in the case of M/s Crosslink Finlease (P) Ltd. for A.Y. 2010-11-reg.

Assessment u/s 143(3) for A.Y. 2010-11 was completed in the case of M/s Crosslink Finlease (P) Ltd. on 22.03.2013 at income of Rs. 1,93,778/- after disallowance u/s 14A of Rs. 67,165/-. Information was received from the DDIT (Inv.)-VI(2) that M/s Crosslink Finlease Pvt. Ltd. had taken accommodation entry amounting to Rs. 6,00,000/- through M/s Avail Financial Services Pvt. Ltd., a company controlled by Sh. S K Jain, during F.Y. 2009-10. Subsequently, order u/s 143(3) r.w.s 147 passed at returned income of Rs. 1,26,610/- on 11.02.2016. Again the same information was received from the DDIT (Inv.) and notice u/s 148 was issued on 29.03.2017. In response to notice u/s 148 dated 29.03.2017, the assessee company filed its ITR on 16.08.2017. During the course of assessment proceedings, the assessee submitted that the issue involved had already been covered vide order u/s 147/143(3) dated 24.02.2016. Hence, proceedings initiated u/s 148 was dropped vide order dated 31.12.2017.

✓ 2. A perusal of the details filed during assessment proceedings reveal that accommodation entry amounting to Rs. 6,00,000/-, received from M/s Avail Financial

Services Pvt Ltd, which is one of the bogus companies created and run by Sh S K Jain Group, had not properly verified.

3. The facts narrated in para 2 warrant proper scrutiny of accommodation entry amounting to Rs. 6,00,000/-, received from M/s Avail Financial Services Pvt Ltd. Hence, the assessments made u/s 143(3) r.w.s. 147 dated 11.02.2016 and 31.12.2017 for A.Y. 2010-11 is prima-facie erroneous and prejudicial to the interests of revenue as envisaged in sec 263 of the IT Act, 1961 and it is proposed to exercise the powers vested in the undersigned u/s 263 of the IT Act, 1961 and revise the assessment on the above lines.

4. For the above purpose, your case is fixed for hearing before the undersigned on **23.03.2018 at 11.00 A.M.** You may appear either in person or through your authorized representative at my office or show cause in writing as to why the assessment orders passed u/s 143(3) r.w.s. 147 dated 11.02.2016 and 31.12.2017 should not be revised u/s 263 of the IT Act, 1961 on the lines indicated above. In case, no response to this show cause notice is received by the said date, it will be construed that you have no objection to the proposed action and order u/s 263 of the IT Act, 1961 shall be passed.



Yours Faithfully,

(P. K. Shrivastava)

Pr. Commissioner of Income Tax-2,
Delhi

(P. K. Shrivastava)
Pr. Commissioner of Income Tax-2
Delhi

5. The issue which needs to be addressed is whether the AO has made any enquiry in respect of the alleged accommodation entry amounting to Rs. 6,00,000/- through M/s Avail Financial Services Pvt. Ltd. The answer lies in the reasons recorded for reopening the assessment which reads as under:

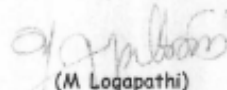
Reasons for reopening the case u/s 148

M/S Crosslinks Finlease Pvt Limited PAN - AABCC3727A ASST. YEAR 2010-11

A letter has been received from the office of Director of Income Tax (Inv)-II, New Delhi in F.No. DIT(Inv)-II/U/5148/2012-13/198 dated 12.03.2013 along with the report of DDIT(Inv), Unit-VI (2), New Delhi in F.No. DDIT(Inv)/U-VI(2)/Information Sharing/2012-13/133 dated 12.03.2013. It has been reported vide said report that a search was conducted and records were seized in the case of Sh. S.K. Jain Group. On examination of record, it was noticed by the DDIT(Inv) Unit-VI(2) that M/s. Crosslinks Finlease Pvt Ltd. has received accommodation entry amounting to ₹ 6,00,000/- through M/s. Avail Financial Services Pvt Ltd, a company controlled by Shri S.K. Jain during the F.Y. 2009-10 relevant to A.Y. 2010-11.

In view of the credible information received in the case of M/s. Crosslinks Finlease Pvt Ltd., I have reasons to believe that an income of ₹ 6,00,000/- has escaped assessment within the meaning of Section 147 relevant for A.Y. 2010-11.

Date: 25.03.2015


(M Logapathi)
Deputy Commissioner of Income Tax,
Circle-6(2), New Delhi

6. After the reopening the assessment on the basis of the abovementioned reasons, the AO issued a Notice U/s 133(6) of the Act to M/s Avail Financial Services Pvt. Ltd., who responded as under:

To
Income Tax Officer
Ward-6(4), Room No.376A,
C. R. Building, I.P. Estate,
New Delhi-110002

Date: 13/01/2016

Subject: - Submission to your Notice u/s 133(6) of the Income Tax Act, 1961 in the case of M/s Crosslinks Finlease Pvt. Ltd. (AABCC3727A) for the A.Y.-2010-11.

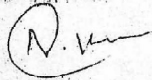
Respected Sir,

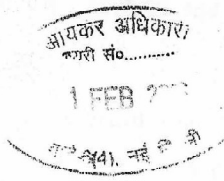
Your honor has asked for few details vide your above notice u/s 133(6) of the income tax act. We respectfully submit the following:

1. We here by confirm that we had given of Rs. 6,00,000/- (SixLac Only) & Rs.3,00,000/- Dated on 17.04.2009 & 23.02.2010 Proper Banking Channel.(Bank statement is enclosed herewith)
2. Copy of Income Tax Return Acknowledgement along with computation is enclosed herewith, and copy of audited balance sheet, profit and loss account of our company for AY 2010-11 are enclosed for your kind perusal.
3. The Transaction mode of through proper banking channel.
4. Copy of Bank Statement showing the transaction with M/s Crosslinks Finlease Pvt. Ltd. for the relevant period is enclosed herewith.
5. Therefore the main principle business of the company has provided the Loans & Advances through out the year.

We hope that the above details will be regarded as sufficient compliance for notice u/s 133(6)

Thanking you
For Avail Financial Services Ltd.
For Avail Financial Services Ltd.


Authorized Signatory
Encl: as above mentioned



7. The above undisputed facts show that not only the AO had made sufficient enquiry but also the said party has confirmed the transaction on the basis of which the AO accepted the return of the assessee inspite of reopening the assessment on the very same ground which prompted the PCIT to assume jurisdiction U/s 263 of the Act.

8. Considering the facts of the case from all possible angle, we are of the considered opinion that the assessment order dated 11.02.2016 is neither erroneous nor prejudicial to the interest of the revenue. Therefore, the assumption of jurisdiction by the PCIT U/s 263 of the Act is bad in law and the order deserves to be set aside. We accordingly restore the assessment order dated 11.02.2016.

9. In the result, Appeal of the assessee is allowed.

Order pronounced in the Open Court on 18.09.2023

Sd/-
(ANUBHAV SHARMA)
JUDICIAL MEMBER

Sd/-
(N.K. BILLAIYA)
ACCOUNTANT MEMBER

Dated: 18 /09/2023.

Pooja/-

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI

Date of dictation	13.09.23
Date on which the typed draft is placed before the dictating Member	14.9.23
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr. PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	