

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

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

**ITA No:- 5169/Del/2016  
(Assessment Year: 2012-13)**

DCIT, Circle 11(1), New Delhi.	Vs.	M/s H N Reacon Pvt. Ltd., 707, 7 <sup>th</sup> Floor, Kailash Building, 26 KG Marg, New Delhi-110001.
<b>PAN No:</b> AABCH3998Q		
<b>APPELLANT</b>		<b>RESPONDENT</b>

**Revenue by** : Shri Waseem Arshad, CIT(DR)  
**Assessee by** : None

**Date of Hearing** : 01.01.2024  
**Date of Pronouncement** : 01.01.2024

**ORDER**

**PER N.K. BILLAIYA, AM**

This appeal by the Revenue is preferred against the order of the CIT(A)-4, New Delhi, dated 21.07.2016 pertaining to A.Y. 2012-13. The grievance of the Revenue reads as under:

*"1. Whether on the facts & the circumstances of the case, Ld. CTT(A) was correct in deleting the disallowance of depreciation on land of Rs. 6,39,863/- ignoring the*

*fact that assessee is not maintaining the composite value of land and building. The land was purchased and added in block of assets during the FY 2006-07 however building was first added in the block of assets during the FY 2009-10*

*2. Whether on the facts & the circumstances of the case, Ld. CIT(A) was correct in deleting the addition on account of capital gain on sale of Land of Rs. 89,74,509/- ignoring the fact that the assessee had purchased the vacant land at Plot no. 36, Block-C, Sector-44, NOIDA in the F.Y. 2006-07 and the assessee had not claimed the depreciation on this asset and the findings of the Id. CIT(A) that the asset sold was a part of the block of the assets on which the assessee has been charging and claiming depreciation in the past as well as in the current year is without any basis.*

*3. Whether on the facts & the circumstances of the case, Ld. CIT(A) was correct in deleting the addition of Share Capital u/s 68 of Rs. 5,79,00,000/-ignoring the fact that all the share applicant were not having capacity to deposit the share premium of Rs. 4990 per share and the source of deposit with all the share applicant companies are either further receipt of share application money with premium or long term borrowings from other dummy companies.*

*3.2 That on the facts and circumstances of the case, the Ld. CIT(A) erred in holding that the appellant company has discharged it's onus in proving the identity, creditworthiness and genuineness in the case of all the investors ignoring the fact that the Inspector in its enquiry report has submitted that there are no as such companies at the addresses provided by the assessee company and Mere filing of confirmation or income tax return does not prove identity of the subscriber company.*

*4. Whether on the facts & the circumstances of the case, Ld. CIT(A) was correct in deleting the addition of unsecured loan u/s 68 of Rs. 11,13,10,000/- ignoring the fact that the assessee company didn't file any detail of the company M/s Bright Line, even the basic details as Income Tax Return and Bank Statement was not filed during the assessment proceedings.*

*5. That on the facts and circumstances of the case, the Id. CIT(A) erred both in fact and in law in deleting the addition on account of share capital and unsecured loans ignoring the fact that the assessee company even didn't submit the confirmation of the most of the subscriber and the assessee vide order sheet entry dated 15.10.2014, 28.11.2014, 05.12.2014, 24.12.2014, 05.01.2015, 30.01.2015, 10.02.2015, 13.02.2015 and 27.02.2015 was asked to produce the principal officer of all the share applicant companies and lender company, however, the assessee didn't produce the principal officer of any of the companies. Even in response of the summons u/s 131, the share applicants didn't turn up and appear before the Assessing Officer.*

*6. The appellant craves leave, to add, alter or amend any ground of appeal raised above at the time of the hearing."*

2. None attended on behalf of the assessee inspite of notice. We decided to proceed it ex-parte.

3. We find the order of National Company Law Tribunal: New Delhi, Special Bench (Court-II) dated 20.09.2023 on record and find following observation of the Ld. Tribunal:

*"Accordingly, the CIRP is initiated and a moratorium qua CD in terms of Section 14 of the Code is declared. As a necessary consequence of the moratorium in terms of Section 14(1) (a), (b), (c) & (d), the following prohibitions are imposed, which must be followed:*

*"(a) The institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;*

*(b) Transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;*

*(c) Any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;*

*(d) The recovery of any property by an owner or lessor, where such property is occupied by or in the possession of the corporate debtor."*

3.1 In the light of the above, the present appeal of the Revenue is dismissed.

4. However, the Revenue is at liberty to approach this Tribunal as and when it receives the final order and the appeal shall be revived. For the moment, the appeal is dismissed.

Order pronounced in the Open Court on 01.01.2024

**Sd/-**  
**(ANUBHAV SHARMA)**  
**JUDICIAL MEMBER**

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

Dated: 01/01/2024.  
Pooja/-

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT NEW DELHI

Date of dictation	01.01.24
Date on which the typed draft is placed before the dictating Member	01.01.24
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	