

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'E' BENCH,
NEW DELHI

BEFORE SHRI SAKTIJIT DEY, VICE PRESIDENT, AND
SHRI NAVEEN CHANDRA, ACCOUNTANT MEMBER

ITA No. 9285/DEL/2019 [A.Y. 2009-10]

MKR Trading Pvt Ltd C - 283, IIInd Floor, DDA Janta Flats Pocket -II, Jasola, New Delhi	Vs.	The Income-tax Officer Ward - 16(4) New Delhi
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PAN - AAICS 3344 J

(Applicant)

(Respondent)

Assessee By : None

Department By : Ms. Kamaljot Kaur, Sr. DR

Date of Hearing : 18.04.2024

Date of Pronouncement : 18.04.2024

ORDER

PER NAVEEN CHANDRA, ACCOUNTANT MEMBER:-

This appeal by the assessee is preferred against the order of the
ld. CIT(A)-6 , Delhi dated 23.07.2019 pertaining to A.Y. 2009-10.

2. The grievances of the assessee read as under:

"1. That the Hon. CIT(A)-6 has erred in law and on facts in sustaining an addition of Rs. 4,22,77,360.00 on illegal and untenable grounds. Hence, the addition as such may be deleted.

2. That the Hon. CIT(A)-6 has erred in law and on facts in sustaining the assessment reopened by the Ld AO ujs147 on untenable and illegal grounds. Hence, the assessment may be quashed.

3. That the Hon. CIT(A)-6 has erred in law and on facts in sustaining the assessment as the jurisdictional requirement of sanctioning u/s. 151 by the PCIT is mechanical in nature and hence, the assessment may be quashed.

4. That the Hon. CIT(A)-6 has erred in law and on facts in sustaining the assessment as the mandatorily notice ujs148 has not been served on the assessee and hence, the assessment may be quashed.

5. That the Hon. CIT(A)-6 has erred in law and on facts in sustaining the assessment as jurisdiction to assessee as per CBOT instruction no 1/11 dated 31.01.2011 for corporate assessee beyond 30 lacs lies with ACIT/DCIT and hence, the assessment may be quashed.

6. That the Hon. CIT(A)-6 has erred in law and on facts in sustaining the assessment as jurisdiction to assessee as per CBOT instruction u/s 120 for corporate assessee lies with ITO ward 16(2). Hence, the assessment may be quashed.

7. That the Hon. CIT(A)-6 has erred in law and on facts in sustaining the assessment made without providing sufficient opportunity to the assessee. Hence, assessment made by Ld ITO Ward 16(4) is bad in law and may be quashed.

8. That the Hon. CIT(A)-6 has erred in law and on facts in sustaining an addition of Rs. 4,22,77,360.00 on illegal and untenable grounds. Hence, the addition as such may be deleted. "

3. Our record shows that this appeal was listed for hearing on several occasions with notice through RPAD, on which dates none appeared on behalf of the assessee nor any request for adjournment was sought. Today also, none appeared on behalf of the assessee in spite of notices. We decided to proceed ex parte. Case records carefully perused.

4. Briefly stated, the facts of the case are that the assessee, formerly known as M/s Saggi Tracxim Pvt Ltd, filed its original return of income on 07.07.2009 declaring NIL income. Thereafter, the

assessee filed revised return of income declaring income of Rs. 2,885/- which was processed u/s 143(1). Subsequently, information was received from Investigation Wing that Shri Vishal Gupta, Chartered Accountant and Shri Jai Prakash Gupta, Chartered Accountants had opened several bank accounts in different branches in Delhi in the names of Private Limited Companies, firms, sole proprietor concern and in the names of individuals. From the analysis of the information, the AO found that there were huge deposit/credit in the bank account of the assessee during the FY 2008-09.

5. During the course of assessment proceedings, the Assessing Officer noticed that the assessee had shown very low income compared to the substantial deposits/receipts in the bank accounts. Reasons were recorded and the case was reopened u/s 148 after obtaining due approval from the competent authority. Several opportunities were given to the assessee to justify the low return of income filed. However, no return of income was filed in response to notice u/s 148 of the Act which was duly served. In the absence of any explanation regarding deposits in the bank account, the Assessing Officer treated the deposits amounting to Rs. 4,27,77,360/- in the bank as unexplained cash credit in the hands of the assessee company as income from

undisclosed sources and made addition of Rs. 4,27,80,250/- u/s 68 of the I.T.Act.

6. Aggrieved with the action of the Assessing Officer, the assessee went in appeal before the Id. CIT(A).

7. After considering the facts and submissions of the Id. counsel for the assessee and perusing the material on record, the Id. CIT(A) observed that despite issuance and service of several notices u/s 250, the assessee does not appear to be interested in filing any details and pursuing the appeal. The CIT(A) held that the assessee has not discharged the onus to prove the genuineness of the transaction and prove the identity and creditworthiness of the person giving credit and upheld the addition made by the assessing officer.

8. Aggrieved further, the assessee is in appeal before us. The sum and substance of the grievance of the assessee is that the addition made and the assumption of jurisdiction u/s 147 for reopening of assessment u/s 147 are illegal and unsustainable.

9. We have heard the ld. DR and have perused the relevant material on record. We find that this appeal was listed for hearing on several occasions with notices through RPAD, on which dates none appeared on behalf of the assessee nor any request for adjournment was sought. Today also, none appeared on behalf of the assessee inspite of notices. Therefore, in absence of any evidence to support the challenge on jurisdictional grounds, we are inclined to dismiss grounds 2 to 7.

10. With respect to ground no. 1 and 8, we find that the ld. CIT(A) has discussed the issue in detail and came to the conclusion that the Assessing Officer has rightly made the addition as the assessee failed to prove the onus cast upon it to prove the identity of the creditor, credit worthiness of the persons giving credit and genuineness of the transaction. In our opinion there is no error in the findings of the Assessing Officer which were sustained by the ld. CIT(A) and accordingly, we dismiss these grounds raised by the assessee.

11. In the result, the appeal of the assessee in ITA No. 9285/DEL/2019 is dismissed.

The order is pronounced in the open court on 18.04.2024.

Sd/-

[SAKTIJIT DEY]
VICE PRESIDENT

Sd/-

[NAVEEN CHANDRA]
ACCOUNTANT MEMBER

Dated: 18th APRIL, 2024.

VL/

Copy forwarded to:

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

Asst. Registrar,
ITAT, New Delhi

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