

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'SMC' BENCH  
MUMBAI**

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER  
&  
SHRI.RATNESH NANDAN SAHAY, ACCOUNTANT MEMBER**

**ITA No.726/MUM/2024  
(Assessment Year: 2009-10)**

Monika Mukul Gupta 705, Residency B. Lokhandwala Complex Andheri West, Mumbai 400 058.	Vs.	Income Tax Officer, 31(2)(3) Bandra Kurla Complex, Bandra West, Mumbai - 400 051.
<b>PAN/GIR No.ACIPG0436C</b>		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

Assessee by	Shri. C. V. Dharkar
Revenue by	Shri. R.R. Makwana
<b>Date of Hearing</b>	<b>20/06/2024</b>
<b>Date of Pronouncement</b>	<b>28/06/2024</b>

**आदेश / O R D E R**

**PER AMIT SHUKLA (J.M):**

The aforesaid appeal has been filed by the assessee against order dated 10/01/2024 passed by Additional / JCIT (A), Mysore for the quantum of assessment passed u/s.143(3) /147 for the A.Y. 2009-10.

2. The brief facts are that assessee has filed the return of income for A.Y.2009-10 on 31/03/2010 declaring total income of Rs.1,50,080/- . Later on, assessee's case was reopened u/s.148

while notice dated 10/02/2014 on the basis of information from the Sales Tax department that assessee has made purchases from Shri Arun Paper and Iron Traders of Rs.12,48,130/- and these parties were involved in accommodation entry. Here in this case it has been pointed out that Late Shri Ramkumar Puranchand Gupta was a proprietor of Pack Deal Packaging Industries who carried out the business from 01/04/2008 to 26/12/2008 till his sudden demise on 27/12/2008. Later on the proprietary business was taken over by Mrs. Monika Mukul Gupta, daughter-in-law of late Ramkumar Puranchand Gupta who was not the legal heir of Late Shri Ramkumar Puranchand Gupta. Thus, the Pack Deal Packaging Industries had two proprietors for two different parties, i.e., Late Shri Ramkumar Puranchand Gupta for the period 01/04/2008 to 26/12/2008 and Mrs. Monika Mukul Gupta for the period 27/12/2008 to 31/03/2009. The alleged bogus bill from Arun Paper and Iron Traders pertain to the period from 01/04/2008 to 26/12/2008 under the proprietary concern of Late Shri Ramkumar Puranchand Gupta. It has further been brought on record that return of income was filed by Late Shri Ramkumar Puranchand Gupta for the period 01/04/2008 to 26/12/2008 under a different PAN and it was filed by his wife Smt. Asharani Ramkumar Gupta as a legal heir of Late Shri Ramkumar Puranchand Gupta on 30/03/2010 wherein total income was declared at Rs.8,26,010/-. The second return was filed by Mrs. Monika Mukul Gupta for the period 27/12/2008 to 31/03/2009 which was filed on 31/03/2010 and she had declared net profit

from the proprietary concern, Pack Deal Packaging Industries of Rs.96,724/-. The copy of death certificate of Late Shri Ramkumar Puranchand Gupta was also available on record and also brought to the notice of the department and also before the JCIT(A). The said document was duly uploaded alongwith return of income in the case of Late Shri Ramkumar Puranchand Gupta and Mrs. Monika Mukul Gupta.

3. Now once the case has been reopened u/s.148 on 10/02/2014 after the death of Late Shri Ramkumar Puranchand Gupta, then notice u/s.148 should have been issued in the name of Late Shri Ramkumar Puranchand Gupta to his legal heir, because the transaction of alleged bogus purchases of Rs. 12,48,130/- from Arun Paper and Iron Traders was made during the period of Late Shri Ramkumar Puranchand Gupta. This fact was also conveyed to the ld. AO vide letter dated 30/01/2015. There were no such purchases made from such party during the period 27/12/2008 to 31/03/2009. Thus, the initiation of proceedings u/s.148 in the case of the present assessee, i.e., Mrs. Monika Mukul Gupta itself was beyond jurisdiction and is bad in law. Not only that, making the addition of Rs.12,48,130/- on account of alleged bogus purchases made by the earlier proprietor Late Shri Ramkumar Puranchand Gupta cannot be added in the hands of the successor proprietor. It is not the case of a firm or company that successor shall be liable to tax. Here, it is a case of an individual and Mrs. Monika Mukul Gupta is not a legal heir of Late Shri Ramkumar Puranchand Gupta albeit, it

has been informed that she was the daughter-in-law of Late Shri Ramkumar Puranchand Gupta. The legal heir brought on record but had filed the return of income of Late Shri Ramkumar Puranchand Gupta, is Smt. Asharani Ramkumar Gupta. Thus, the entire addition is also bad in law. Accordingly, on this preliminary ground, not only the proceedings are held to be invalid but also the addition is also void.

**4. In the result, appeal of the assessee is allowed.**

Order pronounced on 28<sup>th</sup> June, 2024.

**Sd/-**  
**(RATNESH NANDAN SAHAY)**  
**ACCOUNTANT MEMBER**

Mumbai; Dated 28/06/2024  
KARUNA, *sr.ps*

**Sd/-**  
**(AMIT SHUKLA)**  
**JUDICIAL MEMBER**

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,

(Asstt.Registrar)  
**ITAT, Mumbai**