

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'B', NEW DELHI**

Before Sh. C. N. Prasad, Judicial Member

Dr. B. R. R. Kumar, Accountant Member

ITA No. 7771/Del/2019 : Asstt. Year : 2010-11

Fresh Facility Maintenance Pvt. Ltd. (Formerly known as Dreamland Buildcone Pvt. Ltd.), Flat No. 1010, Faiz Road, Karol Bagh, New Delhi-110005	Vs.	Income Tax Officer, Ward-9(3), New Delhi-110002
(APPELLANT)		(RESPONDENT)
PAN No. AACCD0236A		

**Assessee by : Sh. C. S. Aggarwal, Sr. Adv. &
Sh. Ravi Pratap Mall, Adv.**

Revenue by : Sh. Vivek Kumar Upadhyay, Sr. DR

Date of Hearing: 29.07.2024

Date of Pronouncement: 02.09.2024

ORDER

Per Dr. B. R. R. Kumar, Accountant Member:

The present appeal has been filed by the assessee against the order of Id. CIT(A)-34, New Delhi dated 25.07.2019.

2. The relevant grounds are as under:

"1. That the learned CIT(A) has erred both on facts and in law in upholding the legality and validity of proceedings initiated u/s 148 of the Income Tax Act and has further erred in confirming an addition made by the learned AO of Rs.1,65,00,000/-.

2. That the learned CIT(A) has erred in sustaining the order of assessment in the absence of a notice u/s 148 of the Act having been served on the assessee company.

3. That the learned CIT(A) has failed to appreciate that no valid sanction had been obtained by the learned AO from the concerned CIT and the purported sanction granted, if any, was mechanical.

4. That the learned CIT(A) has erred in sustaining the validity of initiation of proceedings u/s 147 of the Act by misconceiving the facts. The pre-requisites of section 147 of the Act have not been satisfied in accordance with law and as such, no valid proceedings could have been initiated against the assessee.

5. That the learned CIT(A) has failed to appreciate that in the instant case addition had been made on a purported ground of unexplained introduction of credit in the garb of sale of shares; whereas there was no material in respect thereof."

3. At the outset, the Id. AR argued and brought to our notice the reasons recorded by the AO at para no. 6 which reads:

"As per information available on record i.e. ITR filed for A.Y. 2010-11, the full and true disclosure with regard to the above transactions have not been made by the assessee company as the fact that the share capital and share premium is being introduced through these dummy company is nowhere disclosed by the assessee company. Hence, it is a failure on the part of the assessee to disclose material fact which attracts provisions of Section 147/148 of the Income Tax Act, 1961."

4. On perusal of the particulars, it is found that the assessee has received neither any share capital nor any share premium during the year. The balance sheet particulars which are as per the records are under:

S. No.	Particulars	A.Y. 2009-10	A.Y. 2010-11	Increase (+)/ Decrease (-)
1.	Authorized Share Capital	50,00,000	50,00,000	Nil
2.	Issued Subscribed and Paid up Capital	6,00,000	6,00,000	Nil
3.	Security Premium Account	25,00,000	25,00,000	Nil

5. Thus, it is clearly proves that there was no amount has been received or introduced on account of either share capital or share premium as alleged by the Assessing Officer in his satisfaction note and hence, the "reasons to believe" as

contemplated as per the provisions of the Income Tax Act, 1961 have not been met by the Assessing Officer either on facts or legality. Hence, the order of the Assessing Officer is treated as *void ab initio*, in the absence of any valid reasons recorded.

6. In the result, the appeal of the assessee is allowed.

Order Pronounced in the Open Court on 02/09/2024.

Sd/-

(C. N. Prasad)
Judicial Member

Dated: 02/09/2024

Subodh Kumar, Sr. PS

Copy forwarded to:

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

Sd/-

(Dr. B. R. R. Kumar)
Accountant Member

ASSISTANT REGISTRAR