

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'G': NEW DELHI**

**BEFORE SHRI YOGESH KUMAR US, JUDICIAL MEMBER
AND
SHRI AVDHESH KUMAR MISHRA, ACCOUNTANT MEMBER**

ITA No.9104/Del/2019, A.Y. 2013-14

ACIT, Central Circle-30, New Delhi	Vs.	Shalimar Lakecity Pvt. Ltd. (Formerly known as ANS Developers Pvt. Ltd.) 308, Tulsiyani Chanber, Nariman Point, Mumbai PAN: AAFCA9848N
(Appellant)		(Respondent)

Appellant by	Sh. Subhash Agarwal, Advocate
Respondent by	Ms. Jaya Choudhary, CIT-DR

Date of Hearing	11/11/2024
Date of Pronouncement	13/11/2024

ORDER

PER AVDHESH KUMAR MISHRA, AM

This appeal for the Assessment Year (hereinafter, the 'AY') 2013-14 filed by the Revenue is directed against the order dated 24.09.2019 passed by the Commissioner of Income Tax (Appeals)-30, New Delhi [hereinafter, the 'CIT (A)'].

2. Following grounds are raised in this appeal: -

"1. Whether on the fact and in the circumstances of the case and in law Re the Ld. CIT(A) was legally justified in holding that documents relied upon by the AO in the assessment leading to the addition of Rs.14,30,00,000/- towards unsecured loans from bogus/shell companies/entities engaged in illegal business of providing accommodation entries, punishable under various

provision of IPC are not incriminating in nature? In doing so, the Ld. CIT(A) has ignored the fact that network, documentation and web of layered companies in the illegal business of providing accommodation entries is well organized throughout MCA and Income Tax Department before various AOs and any finding of information leading to such illegal bogus companies is truly incriminating in nature. Further, the decision of the Ld. CIT(A) leads to legitimizing of accommodation entries routed illegally violating various provisions of IPC.

2. The order of the CIT(A) is erroneous and not tenable in law on facts.

3. That the grounds of appeal are without prejudice to each other.

4. That the appellant craves leave to add, amend, alter or forgo any ground(s) of appeal either before or at the time of hearing of the appeal.”

2.1 In nutshell, we are tasked to decide that whether the addition of Rs.14,30,00,000/- deleted by the Ld.CIT(A) is justified.

3. The respondent/assessee filed its Income Tax Return (hereinafter 'TR') for relevant year declaring loss of (-) Rs.19,98,293/- on 30.11.2013. The case was scrutinized and the assessment was completed at loss of (-) Rs.5,65,340/- under section 143(3) of the Income Tax Act,1961 (hereinafter 'the Act'). Based on the search and seizure operations on Shalimar Group of cases on 18.06.2015, the notice under section 153C of the Act was issued to the respondent/assessee. In response to notice under section 153C of the Act, the respondent/assessee filed its ITR declaring loss of (-) Rs.19,98,293/- on 12.02.2018. The case was completed under section 153C of the Act wherein loans aggregating to

Rs.14,30,00,000/- were treated as unexplained and thus taxed under section 68 of the Act. Aggrieved, the respondent/assessee filed appeal before the Ld. CIT(A), who deleted the entire addition of Rs. 14,30,00,000/- observing as under:-

“8. In my understanding, none of the documents relate to the loans amounting to Rs.14,30,00,000/-, which have formed the basis of addition in this assessment order. In my understanding, the additions u/s 153C can be made only if the documents handed over to the A.O. are incriminating in nature. Thereafter, the additions have to be made in that assessment year only to which these incriminating documents pertain to. In this case, the addition made by the A.O. is not based on seized material handed over to the AO within the meaning of section 153C as detailed in the satisfaction note(s). which have been reproduced above.

I find, on the basis of my analysis in the earlier paragraphs that the material found in search is not incriminating material, per se, within the meaning of section 153C of the I.T. Act, 1961. The additions made by the A.O. are not based on seized material noted in the satisfaction note(s).

In this connection, position of law has been elaborated by the Hon'ble Delhi High Court (basing themselves upon Hon'ble Supreme Court in the case of CIT vs. Singhad Technical Education Society (2017) 84 taxmann.com 290 (SC)), in the case of Pr. CIT vs. Index Securities (P) Ltd. reported as 86 taxman.com 84 (Delhi). In this connection, I find it proper to reproduce paras 31 till 33 of this order of Hon'ble Delhi High Court dated 04.09.2017 as follows –

*“31.
32.
33.”*

The Hon'ble Delhi High Court in this order in the case of pr. CIT vs. Index Securities (P) Ltd. has built upon the cases of CIT vs. RRJ Securities Limited reported as 380 ITR 612 (Delhi) and M/s. AR Infra India Limited vs. ACIT reported as 394 ITR 569 (Delhi).

I find that the seized documents referred to in the satisfaction notes cannot be said to be incriminating, with regard to this assessee for this assessment year.

In this connection, reliance is also placed upon orders of Delhi High Court in the cases of -

(i) CIT vs. Kabul Chawla, 380 ITR 573

(ii) Pr. CIT vs. Lata Jain, 384 ITR 543

(iii) CIT vs. Kurele Paper Mills P. Ltd., 380 ITR 571

(iv) CIT vs. Smt. Kusum Gupta, ITA No. 634/2015

I am bound by the wisdom of Hon'ble Supreme Court, as provided in the case of CIT vs. Singhad Technical Education Society (order dated 29.8.2017), and various orders of Hon'ble Delhi High Court as detailed above. The additions in this assessment are not based upon material received by the A.O. as detailed in the satisfaction note. Accordingly, based on totality of facts and detailed analysis as above, the addition made by the A.O. amounting to Rs. 14,30,00,000/-, is hereby deleted.”

[Emphasis supplied.]

4. The Ld. CIT-DR, placing reliance on the assessment order, argued the case vehemently and prayed for setting aside the impugned order and upholding of the addition of Rs.14,30,00,000/-.

5. The Ld. Counsel submitted that there was no incriminating material against the respondent/assessee even for initiation of the proceedings under section 153C of the Act for the relevant year what to say of any consequential addition. He further contended that the CIT(A) had given categorical finding of fact, which was not controverted by the CIT-DR; hence, the Revenue's appeal deserved dismissal. He further prayed that the Tribunal may consider to give categorical finding on the merit also as the CIT(A) failed to adjudicate the case on merit though he was required to

adjudicate the case on merit as per the ground of appeal raised before him.

6. We have heard both the parties and have perused the material available on the record. It is found that there is no adverse incriminating material/document found in the premises of the searched person based on which the addition of Rs.14,30,00,000/- was made in this case. We are therefore, of the considered view that the decision of the Hon'ble Supreme Court in the case of Singhad Technical Education Society 397 ITR 344 and the decisions of the Hon'ble jurisdictional High Court in the cases of RRJ Securities Ltd. and AR Infra India Ltd. 394 ITR 569 are applicable here in the present case. We, therefore, do not find any infirmity in the impugned order and thus, we decline to interfere with the finding of the Ld. CIT(A). Accordingly, the appeal of the Revenue is dismissed.

7. The issue raised by the Ld. Counsel has not been raised through Cross Objection, Cross Appeal or under Rule 27 of the ITAT Rules. We, therefore, do not find fit to decide this issue, being academic in nature.

8. In the result, the appeal of the Revenue is hereby dismissed.

Order pronounced in open Court on 13th November, 2024

Sd/-

(YOGESH KUMAR US)
JUDICIAL MEMBER

Dated:13/11/2024

Binita, Sr. PS

Copy forwarded to:

Sd/-

(AVDHESH KUMAR MISHRA)
ACCOUNTANT MEMBER

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI