

**INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "A": NEW DELHI  
BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER  
AND  
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

**ITA No. 1904/Del/2024  
(Assessment Year: 2012-13)**

Bluesky Portfolios Pvt. Ltd, C/o. 516, Laxmideep Building, District Centre, Laxmi Nagar, new Delhi (Appellant) <b>PAN:AADCB9442P</b>	Vs. ITO, Ward-5(1), New Delhi  (Respondent)
---	---

Assessee by :	Shri Samyak Jain, AR
Revenue by:	Ms. Kanchan Garg, Sr. DR

Date of Hearing	13/11/2024
Date of pronouncement	25/11/2024

O R D E R

**PER M. BALAGANESH, A. M.:**

1. The appeal in ITA No.1904/Del/2024 for AY 2012-13, arises out of the order of the National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'ld. NFAC', in short] in Appeal No. ITBA/NFAC/S/250/2023-24/1061420732(1) dated 23.02.2024 against the order of assessment passed u/s 147 r.w.s 143(3) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 08.01.2020 by the Assessing Officer, ITO, Ward-5(1), Delhi (hereinafter referred to as 'ld. AO').

2. The assessee has raised the following grounds of appeal before us:-

*"1. The order of Ld. A.O. is based on personal whims and fancies without ascertaining the facts and circumstances of the case. Hence liable to be quashed.*

*2. That on the facts and circumstance of the case, the order passed u/s 147/143(3) of the Act is null and void as the same is in violation of CBDT Circular No. 19/2019 requiring to issue separate DIN for Order, Demand Notice and Computation Sheet as well as mandatory mentioning of DIN on the body of the order and Demand Notice.*

*3. That on facts and circumstances of the case, Ld. CIT(A), NFAC erred in passing ex-party order without providing adequate opportunity to appellant to represent the matter.*

*On facts and circumstances of the case, the initiation of action u/s 148 of the Act is bad in law as the notice has been issued against the non-existent assessee.*

*4. On facts and circumstances of the case, the initiation of action u/s 148 is bad in law, being based on bad allegations equating the same with tangible material.*

*5. On the facts and circumstance of case and in law, the initiation of proceedings u/s 148 and the consequent assessment u/s 147 r.w.s. 143(3) is contrary to law in the absence of any incriminating material to from reason to believe, as per the report of Investigation Wing and AO relied on, which only directs the AO to examine the details and after this examination only to determine whether there could be any justification for initiation of action u/s 147. Thus, the issue of notice u/s 148 and the consequent assessment u/s 147 r.w.s. 143(3) is without the authority of law and do not provide jurisdiction to the AO to make re-assessment u/s 147 r.w.s. 143(3).*

*6. On the facts and circumstance of case and in law, the assessment u/s 147 r.w.s. 143(3) is unlawful, arbitrary and without jurisdiction on account of lack of application of mind.*

*7. On the facts and circumstance of case and in law, the assessment is bad in law being made without following the principles of equity and justice and denying the assessee of proper opportunity to defend, without supplying the copies of material relied on and cross examination of the witnesses whose statement have been relied upon to initiate action and complete assessment.*

*8. On the facts and circumstance of case and in law, the Ld. A.O. erred in making addition of Rs. 73,63,342/- on account of alleged accommodation entry, merely following the investigation report, ignoring the voluminous evidence to the contrary brought on record by the assessee. The addition is made on the basis of conjectures and surmises is treated as undisclosed income u/s 68 of Income Tax Act, 1961.*

*9. On the facts and circumstance of case and in law, the Ld. A.O. erred in making addition of Rs. 73,633/- i.e. (1% of Rs. 73,63,342/-) u/s 69C of Income Tax Act, 1961 on account of commission charged on providing accommodation entries, ignoring the evidence brought on record by the appellant.*

*10. That the appellant craves leave to add, amend, modify, rescind, supplement or alter any of the grounds of appeal before the appeal is finally adjudicated upon."*

3. We have heard the rival submissions and perused the materials available on record. The Assessee Company is engaged in the business of trading of shares and securities. It had filed its original return of income on 18-02-2013 declaring income of Rs. 2,55,700. The case of the Assessee was reopened under section 147 of the Act and the notice under section 148 stood issued to the Assessee on 29-03-2019. In response to the notice under section 148 of the Act, the Assessee filed its return on 30-07-2019 declaring the same income of Rs. 2,55,700/-. The assessment ultimately stood completed under section 143(3) read with section 147 of the Act on 25-11-2019 determining total income at Rs. 74,36,975/- after making additions under section 68 of the Act.

4. The Assessee preferred an appeal before the Learned NFAC Delhi. The Learned NFAC issued three notices to the Assessee through email for which no response was made from the side of the Assessee. The Learned NFAC observed that Assessee has been seeking adjournments repeatedly without furnishing the requisite details and accordingly proceeded to uphold the action of the Learned AO by reiterating the findings of the assessment order. Before us, the Learned AR prayed for one effective opportunity to be given to the Assessee to put forth its submissions with supporting documentary evidences. Considering the request, the bench deems it fit and appropriate to restore this appeal to the file of Learned NFAC Delhi for de novo adjudication in accordance with

law. Needless to mention that the Assessee be given reasonable opportunity of being heard. The Assessee is at liberty to furnish further documents and evidences, if any, in support of its contentions. In view of this decision, all other technical grounds and grounds raised on merits by the Assessee need not be gone into and they are left open and they are also restored to the file of Learned NFAC Delhi. The Assessee is directed to cooperate with the Learned NFAC Delhi by furnishing the requisite details in support of its contentions and not take unwarranted adjournments except due to bona fide and exceptional circumstances, which shall be considered by the Learned NFAC Delhi in accordance with law. With these observations, the grounds raised by the Assessee are allowed for statistical purposes.

5. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 25/11/2024.

**-Sd/-**  
**(SATBEER SINGH GODARA)**  
**JUDICIAL MEMBER**

**-Sd/-**  
**(M BALAGANESH)**  
**ACCOUNTANT MEMBER**

Dated:25/11/2024  
A K Keot

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR  
ITAT, New Delhi