

IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, KOLKATA

**BEFORE SHRI RAJESH KUMAR, AM
AND
SHRI SONJOY SARMA, JM**

**ITA No.1873/KOL/2024
(Assessment Year: 2018-19)**

M/s Shree Prakash Tracon Pvt.
Ltd.
Room No. 301/A/1, Avani
Signature, 91/a/1, Park Street,
Kolkata-700016

(Appellant)

PAN No. AAKCS7629A

Income Tax Officer,
Ward 591), Kokata P-7,
Vs. Chowringhee Square, Aaykar
Bhavan, Kolkata-700069

(Respondent)

Assessee by : Shri Sunil Surana, AR
Revenue by : Shri Pradip Biswas, DR

Date of hearing: 29.10.2024
Date of pronouncement : 28.11.2024

ORDER

PER RAJESH KUMAR, AM:

This is an appeal preferred by the assessee against the order of the National Faceless Appeal Centre, Delhi (hereinafter referred to as the "Ld. CIT(A)") dated 21.08.2024 for the AY 2018-19.

02. Though the assessee has raised various grounds of appeal in the memorandum of appeal but during the course of hearing, the counsel of the assessee only pressed a legal issue that the order passed by the Id. AO is bad in law and addition made without jurisdiction as no addition was made for those items which were subject matter of reasons recorded u/s 148(2) of the Act.

03. As no return of income was filed u/s 139(1) of the Act, the Id. AO therefore, initiating the proceedings u/s 147 of the Act, by issuing notice u/s 148 of the Act dated 7th April, 2022. After receiving information on Insight portal to the effect that the assessee has made following transactions during the F.Y. 2017-18
- a. Time deposit of ₹1,44,31,436 in bank account maintained with IDBI Bank
 - b. Rent Received from BNP Paribas of ₹66,61,536/- and interest received of ₹12,30,357/- in IDBI Bank.
04. The order u/s 148A(d) of the Act was passed by the AO and notice u/s 148 of the was issued on 7.4.2022. The assessee filed the return of income in compliance thereto on 6.6.2023 declaring total income of Rs. 30,64,820/-. The statutory notices were duly issued and served on the assessee. The assessee complied with the said notices. The Id. AO on the basis of the said reply did not make any addition qua item as was subject matter of the notice issued u/s 148A(b) of the Act, copy of which is available at page no.2 of the Paper Book. However, he made disallowance of expenses u/s 69C of the Act being unexplained to the tune of ₹28,33,609/-. The appeal of the assessee was partly allowed by the Id. CIT (A) by confirming the addition to the tune of ₹50% of expenses and deleting the remaining 50%.
05. After hearing the rival contentions and perusing the documents available on record, we find that the Id. AO undisputedly did not make any addition in respect of the items of income which were subject matter of the notice u/s 148A(b) and order u/s 148A(d) of the Act . The copy of the notice issued u/s 148A of the Act in clause (b) with annexure is available at paper book page no.1-2. We note that the

case of the assessee was reopened on the ground that assessee has transactions relating to rent receipt and renewal of FDS, etc. Thereafter, the order passed under clause (d) of Section 148A of the Act dated 07/04/2022, stating there that the notice issued u/s 148A(b) was not complied with till 25.03.2022 and the income to the tune of ₹2,23,23,329/- has escaped assessment for A.Y. 2018-19 on account of TDS (1941) Rent for BNB Paribas, Time Deposits and TDS (194A) Interest for IDBI Bank Ltd. We note that the Id. AO did not make addition in the assessment order qua the subject information in order passed u/s 148A(d) of the Act. Once, no addition was made in respect of the items of income, which were stated by the Id. AO were escaped in the order passed under clause (d) of Section 148A of the Act, then no other addition can be made as the AO has no jurisdiction as well as on the ground that the very foundation of the proceedings are demolished. The case of the assessee is squarely covered by series of decision. Accordingly we are inclined to quash the re-opening proceedings as well as the consequent assessment framed.

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

Order pronounced in the open court on 28.11.2024.

Sd/-
(SONJOY SARMA)
(JUDICIAL MEMBER)

Sd/-
(RAJESH KUMAR)
(ACCOUNTANT MEMBER)

Kolkata, Dated: 28.11.2024

Sudip Sarkar, Sr.PS



Copy of the Order forwarded to :

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

BY ORDER,

True Copy//

Sr. Private Secretary/ Asst. Registrar
Income Tax Appellate Tribunal, Kolkata