

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

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER  
&  
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA No.4639/Mum/2023  
(Assessment Year :2009-10)**

M/s. Innovators Façade Systems Limited B-65/204, Jaydeep CHSL Shanti Nagar Mira Road (E) Thane-401 017	Vs.	Commissioner of Income Tax (Appeal) Pune-11 ACIT, Circle-2 Thane Room No.27, B Wing 6 <sup>th</sup> Floor, Ashar IT Park MIDC, Thane (W)
<b>PAN/GIR No.AAAC17326Q</b>		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

Assessee by	Shri Govind Javeri
Revenue by	Shri Krishna Kumar
<b>Date of Hearing</b>	<b>27/11/2024</b>
<b>Date of Pronouncement</b>	<b>28/11/2024</b>

**आदेश / O R D E R**

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

The aforesaid appeal has been filed by the assessee against order dated 16/10/2023 passed by CIT (A)-Pune-11 for the quantum of assessment passed u/s.143(3) r.w.s.147 for the A.Y.2009-10.

2. Before us assessee has challenged the validity of reopening u/s.147 and issuance of notice u/s.148 beyond the period of

four years and also challenged the addition of Rs.99,00,000/- added towards share application money u/s.68.

3. Before us, Id. Counsel submitted that here in this case the return of income was filed on 29/09/2009 declaring total income of Rs.1,33,16,240/- and thereafter assessment was completed u/s.143(3) on 23/12/2011 after making adhoc disallowance of various expenses of Rs.11,00,000/- and assessment was completed at an income of Rs.1,44,60,240/-. Thereafter, notice u/s.148 was issued on 29/01/2013 on account of some alleged bogus purchases and addition of Rs.3,40,64,343/- was made, adding entire purchase and total income was assessed at Rs.4,74,24,583/-. Now again second reopening u/s 147 has been done and notice u/s.148 has been issued for the second time on 30/03/2016. This time reopening has been done on the following reasons recorded:-

*"The assessee Company M/s Innovators façade systems Pvt. Ltd., having PAN- AAAC17326Q was incorporated on 08-06-1999.*

*The Information is received from Dy. Commissioner of Income Tax, Central Circle-4, Surat (Gujrat) in the case of Pravin Jain Group. The group provides accommodation entries of bogus sales through various benami concerns operated & managed by above group.*

*Based on the documents found the search & Seizer action dated 01/10/2013 by the DDIT(INV), unit-1 (4) Mumbai and statement of above group, information has been received that M/s. Innovators Façade Systems Pvt Ltd PAN NO.AAACI7326Q is one of the beneficiary who has got accommodation entry for A.Y.2009-10 from above group as per information received the assessee has*

obtain accommodation entry amounting to Rs.20,00,000/- during A.Y.2009-10.

*Keeping in view of the above information received I have reason to believe that amount Rs.20,00,000/- has escaped assessment within the meaning of provisions of Section 147 of the I.T.Act, due to failure on the part of the assessee to disclose fully and truly all material facts necessary for its assessment for A.Y.2009-10"*

4. Against the aforesaid reasons assessee has raised the objection before the ld. AO vide letter dated 08/11/2016 which has been disposed of by the ld. AO. During the course of assessment proceedings ld. AO noted that assessee has received share application alongwith share premium from following six entities.

Sr. No	Name of the shareholder	No. of equity	Share capital	Total capital	Share Premium	Share Premium
		Shares	Face Value			Amount
1	Blazer Venture Pvt. Ltd.	120000	10	1200000	10	1200000
2	Capetown Mercantile Company Pvt. Ltd.	50000	10	500000	10	500000
3	Fairment Venture Pvt. Ltd.	120000	10	1200000	10	1200000
4	Kumaon Engineering Co. Pvt. Ltd.	100000	10	1000000	10	1000000

5	Moto Soft Tel Pvt. Ltd.	55000	10	550000	10	550000
6	Vibhuti Multi Trade Pvt. Ltd.	50000	10	500000	10	500000
	Total	49500		4950000		4950000

5. According to the AO, since assessee has failed to produce the parties and these are companies controlled by Pravin Jain group and therefore, as per the information received from Investigation Wing, it is in the nature of accommodation entry. Hence, the entire amount of Rs.99,00,000. Ld. CIT (A) too has confirmed the said addition for the same reasoning.

6. Before us, ld. Counsel has challenged the validity of reopening and the reasons recorded on the ground that, *firstly*, it is based on borrowed satisfaction; and *secondly*, there is no application of mind by the ld. AO because in the reasons recorded, ld. AO has mentioned that assessee has received accommodation entry of Rs. 20,00,000/- however, no such amount of Rs.20,00,000/- has been received albeit assessee has received share application money of Rs.99,00,000/- from 6 different parties. He also pointed out that at page 36-37 of the CIT (A) order there is a mention of list of various companies owned and controlled by Shri Pravin Jain which are running into 52 companies and in the list of those companies of Shri Pravin Jain, none of the six companies from whom assessee has received share application money belong to Shri Pravin Jain group. Thus, the entire basis for reopening for the second time is

on wrong assumption of facts and therefore, on this ground alone reopening should be quashed.

7. On the other hand, ld. DR submitted that it is an undisputed fact that assessee received share application money and could not prove the genuineness and creditworthiness of the parties and once it is a fact that assessee had received credit entries, the reopening is valid. Thus, he strongly relied upon the order of the ld. CIT(A) confirming the reopening.

8. We have heard both the parties and also perused the relevant finding given in the impugned orders. As noted above, here in this case original assessment order was passed u/s. 143(3) on 23/02/2011 and then again re-assessment order was passed u/s. 143(3) / 147 on 03/12/2013, whereby addition was made on some alleged bogus purchases. The quantum appeal against this addition had attained finality from the stage of the Tribunal wherein the addition on account of bogus purchases was limited to application of net profit rate. Now again reopening has been done on the basis of certain information received from DCIT-Central Circle, Surat in the case of Shri Pravin Jain group that this group provides entries of bogus sales. From the perusal of the reasons recorded it is seen that reopening is based on documents found in the search and seizure action dated 01/10/2013 in the Pravin Jain group wherein information has been received that assessee i.e., Innovators Façade Systems Ltd., is one of the beneficiary who has got accommodation entry for A.Y.2009-10 amounting to Rs.20,00,000/- and therefore, ld. AO

has the reason to believe that amount of Rs.20,00,000/- has escaped assessment within the meaning of Section 147 due to failure on the part of the assessee of disclosed fully and truly all material facts necessary for its assessment for A.Y.2009-10. Thereafter, ld. AO *de-hors* the information sated in the reasons recorded, that there was an accommodation entry of Rs. 20,00,000/-, has ultimately gone by the entries in the books of accounts wherein assessee had shown share application monies from 6 different companies who had no connection with the Pravin Jain Group. There was no such entry of Rs. 20,00,000/- in the books. Nowhere in the reasons it has been mentioned that what was the nature of accommodation entry of Rs.20,00,000/-, that is, it is in the form of loan, share application money or bogus sales, etc. and which of the companies / entities of Shri Pravin Jain group has provided the accommodation entry to the assessee. There has to be specific material coming on record and correlation with the entries in the book. Here in this case there is no accommodation entry of Rs.20,00,000/- credited in the books of the assessee, which fact is also borne out from the assessment order. The share application money has come from six entities and without any material information on record as to how these companies were Benami concerns of Shri Pravin Jain or group and how these companies are related to Shri Pravin Jain, can there be any reason to believe as contemplated in section 147. Without this information, how can AO entertain reason to believe that income chargeable to tax has escaped assessment in the form of share application money, because it is in the nature of

accommodation entry. There is absolutely no co-relation between the reasons recorded and the facts and material on record, because in the books assessee had shown share application money from these companies for sums aggregating to Rs.99,00,000/- where as in the reasons there is a vague mention of Rs.20,00,000/- which has been alleged to be on account of accommodation entry. There has to be some live link nexus with the information and income escaping assessment. If the information was for Rs.20,00,000/- then what was the nature of this information and the accommodation entry and from which of the company there is no whisper. This shows that there is a complete lack of application of mind by the ld. AO especially when reopening is being done for the second time.

9. As pointed out by the ld. Counsel for the assessee that ld. CIT (A) in his impugned order at pages 36-38 has extracted the statement of Shri Pravin Jain, wherein in Question No.63, he has given the list of companies in which he was a Director and has given the list of 13 such companies and also the list of 39 companies where although he was not formally associated but was managed and controlled by him, For the sake of ready reference, relevant question and the list of companies are as under:-

*Q.63 Please give the complete list of all the companies in which either you or your close associates/family members are directors along with the complete list of companies under your control*

*Sir, I am a director in the following companies*

1. Anchal Properties Pvt Ltd
2. Easy Mercantile Pvt Ltd
3. Nakshatra Business Pvt Ltd
- 4 Olive Overseas Pvt Ltd
5. Picadily Overseas Pvt Ltd
6. PIM Trading (1) Pvt Ltd
7. Raghunandab Reyons Ltd
8. Riddhi Siddhi Multitude Pvt Ltd
9. Sanjivani Enviro Protection Ltd
10. SBI Training India Pvt Ltd
- 11 Sumith Commercial Pvt Ltd
- 12 Spine Infotech Pvt Ltd
13. Angel Softlang Pvt Ltd

*With the following companies and other entities, I am not formally associated but, these are managed and controlled by me*

1. Aalla Diamond Industries Limited
2. Ansh Merchandise Pvt Ltd
3. Atharv Business Pvt Ltd
4. Bhagyashree Gems Pvt Ltd
- 5 Casper Enterprise Pvt Ltd
6. Duke Business Pvt Ltd
7. Flak Trading Co Pvt Ltd
8. Jahanavi Gems Pvt Ltd
9. Javde India Impex Ltd
- 10 Josh Trading Pvt Ltd
11. Kush Hindustan Entertainment Ltd
12. Pragati Gems Pvt Ltd
13. Spurti Computech Pvt Ltd
14. Tanika Commodities Pvt Ltd
- 15 Trangular Infocom Pvt Ltd
16. Vanguard Jewels Ltd
17. Viraj Mercantile Pvt Ltd
18. Yaswh V Jewels Ltd
19. Anan Diamonds

- 20. Arihant Corporation*
- 21. Ganesh Trading Co*
- 22. Jasoda Exports*
- 23. Kailash International*
- 24. KLI Diamond*
- 25. Kunal Gems*
- 26. Kush International*
- 27. Mahalxmi Corporation*
- 28. Mahalxmi Trading Co*
- 29. Minal Corporation*
- 30. Mohit International*
- 31. Natasha Enterprises*
- 32. Paras Gems*
- 33. Pratik Impex*
- 34. RS Enterprises*
- 35. Raj Export*
- 36. Ryan International*
- 37. Seven Star Gems*
- 38. Suraj Gems*
- 39. Taj Impex*

10. From the perusal of the aforesaid list of companies and the companies from whom assessee had received share application money, it can be seen that nowhere these companies have been mentioned by Shri Pravin Jain that any of the 6 entities were managed and controlled by him. Thus, the very premise of the Id. AO while recording the reasons is based on wrong assumption of facts. It is a very well settled law that Id. AO has acquired jurisdiction based on valid reasons and material and information referred to in the reasons recorded should have live link nexus with the income escaping assessment. If there is no such material and information relevant to the assessee, then Id. AO

cannot reopen the case based on incorrect assumption of facts recorded and the reasons recorded. Thus, the reasons recorded by the ld. AO do not clothe the him with the jurisdiction to reopen the assessment u/s 147 for the second time and accordingly, the reason recorded as well as the notice issued u/s.148 is invalid and accordingly, same is quashed. Thus, the entire re-assessment order is quashed.

**11. In the result, appeal of the assessee is allowed on jurisdictional issue.**

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

**Sd/-**  
**(GIRISH AGRAWAL)**  
**ACCOUNTANT MEMBER**

Mumbai; Dated 28/11/2024  
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**