

IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, KOLKATA
BEFORE SHRI RAJESH KUMAR, AM
AND
SHRI SONJOY SARMA, JM
ITA Nos.47 & 48/KOL/2024
(Assessment Years:2010-11 & 2011-12)

**M/s Majestic Sales Promotion
Pvt. Ltd.**

12A, 1st Floor, Room No.102,
Shyamkunj Apartment, Lord
Sinha Road, Kolkata-700071,
West Bengal

(Appellant)

Vs.

DCIT, Cir-8(1)

Aaykar Bhavan, 8th Floor,
P-7, Choringhee Square,
Kolkata-700069,
West Bengal

(Respondent)

PAN No. AACCM1052H

Assessee by : Shri Abhishak Bansal, AR
Revenue by : Shri B. Satyanarayana Raju, DR

Date of hearing: 24.02.2025
Date of pronouncement : 28.03.2025

ORDER

Per Rajesh Kumar, AM:

These are appeals preferred by the assessee against the orders of the National Faceless Appeal Centre, Delhi (hereinafter referred to as the "Ld. CIT(A)") dated 11.10.2023 & 12.10.2023 for the AYs 2010-11 & 2011-12 respectively.

ITA No. 48/KOL/2024 for A.Y. 2011-12

02. At the time of hearing, the assessee only pressed ground no.4, which is extracted as under:-

"4. For that the re-assessment proceedings initiated after 4 years from the end of assessment year without there being failure on the part of the assessee to disclose fully and truly any material facts is without jurisdiction being barred by limitation."

03. The facts in brief are that the assessee filed the return of income on 13.09.2011, declaring total income at ₹12,83,718/-. The case of the



assessee was selected for scrutiny and accordingly, assessment was framed u/s 143(3) vide order dated 24.03.2014. Thereafter, the case of the assessee was reopened u/s 147 of the Act by issuing notice u/s 148 of the Act on 22.03.2018, which was duly served upon the assessee. The assessee complied with the said notice by filing the return of income on 31.03.2018 and thereafter the assessee was provided a copy of the reasons recorded to which the assessee filed objection which were disposed off by the Id. AO vide order dated 25.07.2018. The case of the assessee was reopened after information was received from the investigation wing, Kolkata that assessee was beneficiary of accommodation entries to the tune of ₹35.00 lacs from M/s Deergold Suppliers Pvt. Ltd. According to the Id. AO the information was very comprehensive qua cash deposited in the bank accounts and transferred the same to the assessee. During the assessment proceedings, the Counsel of the assessee attended the proceeding furnishing written submissions and evidences from time to time. Finally, the Id. AO after rejecting the contention of the assessee, framed the assessment u/s 147/ 143(3) of the Act dated 24.12.2018 by making an addition of ₹35.00 lacs on account of unexplained cash credit which was received from sale of investments in M/s Rajgaj Traders Private Limited and M/s Pensol Oil Private Limited by treating the same as bogus and non-genuine. The Id. AO also made three other additions as discussed in Para no.3.4, 3.5 and 4.6 of the assessment order.

04. The said issue was raised before the Id. CIT (A) by way of raising ground no. 1 and 2 in an appeal , however, there was no specific adjudication on this issue by the Id. Commissioner of Income-tax (Appeals).



05. After hearing the rival contentions and perusing the materials available on record, we find that admittedly the case of the assessee was reopened u/s 147 of the Act by issuing notice u/s 148 of the Act on 22.03.2018, a copy of which is available at page no.48 of the Paper Book. This is also undisputed that assessment u/s 143(3) of the Act was framed in this case vide order dated 24.03.2014, a copy of which is available at page no. 24 to 30 of the Paper Book. Apparently, the case of the assessee was reopened u/s 147 of the Act after a period of four years from the end of the relevant assessment year which is A.Y. 2011-12, and therefore, the reopening of assessment could only have been made subject to the satisfaction of the conditions as provided in first proviso to Section 147 of the Act. The copy of reasons recorded u/s 148(2) of the Act is available at page no.73 to 74 in which nowhere the Id. AO has even whispered about the failure of the assessee to truly and materially disclose any information during the course of assessment proceedings which has resulted into an escapement of income. Therefore the reopening of assessment u/s 147 of the Act which is in violation of proviso to section 147 of the Act can not be sustained as the same is invalid and illegal. The case of the assessee is squarely covered by the decision of Hon'ble Apex Court in the case of ACIT vs. CEAT Ltd. [2023] 146 taxmann.com 108 (SC) wherein exactly same ratio has been laid down that no re-opening of assessment is invalid if the same is not in consonance with the proviso to section 147 of the Act. Consequently, the appeal of the assessee is allowed.

47/KOL/2024 for A.Y. 2010-12

06. The issue raised in this appeal is similar to one as decided by us in ITA No. 48/KOL/2024. Accordingly, our decision would apply mutatis



mutandis to this appeal of assessee in ITA No.47/KOL/2024. Hence, the appeal of assessee in ITA No. 47/KOL/2024/ is allowed.

07. In the result, the appeals of the assessee are allowed.

Order pronounced in the open court on 28.03.2025.

Sd/-
(SONJOY SARMA)
(JUDICIAL MEMBER)

Sd/-
(RAJESH KUMAR)
(ACCOUNTANT MEMBER)

Kolkata, Dated: 28.03.2025

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