

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES: E : NEW DELHI

BEFORE SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER

AND

SHRI ANUBHAV SHARMA, JUDICIAL MEMBER

ITA No.3164/Del/2024
Assessment Year: 2016-17

ACIT,
Circle-16(1),
Delhi.

Vs MAC Insurance Broking Private Ltd.,
504, Prakashdeep Building,
7, Tolstoy Marg,
Connaught Place,
Delhi – 110 001.

PAN: AAECM0148A

(Appellant)

(Respondent)

Assessee by	:	Shri Manish Khurana, Advocate
Revenue by	:	Shri Dheeraj Kumar Jain, Sr. DR
Date of Hearing	:	17.07.2025
Date of Pronouncement	:	31.07.2025

ORDER

PER ANUBHAV SHARMA, JM:

This appeal is preferred by the Revenue against the order dated 03.05.2024 of the Commissioner of Income-tax (Appeals), NFAC, Delhi (hereinafter referred to as the Ld. First Appellate Authority or ‘the Ld. FAA’, for short) in Appeal No.CIT(A), Delhi-6/10395/2018-19 arising out of the appeal before it against the order dated 28.12.2018 passed u/s 143(3)

of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') by the DCIT, Circle-16(1), Delhi (hereinafter referred to as the Ld. AO).

2. Heard and perused the record. The assessee is a private limited company and during the instant year, the AO had made an addition u/s 68 of the Act doubting the genuineness of the transaction of advance of Rs.2,50,00,000/- received allegedly against sale of property. The ld. AO in para 5.1 had observed as follows:-

“5.1 As discussed in the legal position above, burden of proving source of credit in books of accounts is on the assessee. The onus is on the assessee to give satisfactory explanation in order to prove identity, credit worthiness and genuineness of the transactions. In this case even though the assessee has proved the identity and creditworthiness of the party who has extended credit of Rs. 2,50,00,000/- to the assessee, however, assessee has failed to discharge its onus to give satisfactory explanation to prove the genuineness of the transaction undertaken. The assessee has received Rs. 2,50,00,000/- as advance against sale of property from M/s PSL Infratech Private Limited to meet its liquidity crisis but the actual sale of property has not taken place till date. The assessee immediately transferred the money credited in its books to the accounts of another company i.e. M/s Shatabadi Sale Private Limited from whom it purchased 16,000 shares of M/s PSL Infratech Private Limited. The whole transaction is suspicious and does not appear to be genuine. The detailed discussion on this has already been made in para 3.8 above.”

3. The ld.CIT(A) has taken into consideration the fact of repayment of loans and accepted the submissions of the assessee by making the following observations:-

“5.2 On perusal of the above documentary evidences submitted by the appellant in support of its contention proves that the transaction had not been taken place and the advance received by the appellant was paid back to the buyer in subsequent years. Hence, the addition of Rs.2,50,00,000/- made by the assessing officer as unexplained cash

credit is required to be deleted. Accordingly, the assessing officer is directed to delete this addition of Rs.2,50,00,000/- made in the order under section 143(3) of the Income Tax Act, 1961 dated 28.12.2018 for the assessment year 2016- 17. Thus, the appellant gets relief of Rs.2,50,00,000/-. Therefore, the grounds of appeal Nos. 2, 4, 5, 6 and 12 are allowed.”

4. The Revenue is in appeal raising the following grounds:-

"Whether on the facts and circumstances, the Ld. CIT(A) was justified in deleting the addition made by AO u/s 68 of the Act by merely considering that the same amount was paid back by the assessee in subsequent years?

2) Whether on the facts and circumstances, the Ld. CIT (A) was justified in ignoring the facts, that the assessee has failed to discharge its onus to prove the genuineness of transaction?

3) Whether on the facts and circumstances, the Ld. CIT(A) was justified in deleting the addition of Rs. 2,50,00,000/- made u/s 68 when the assessee has claimed that the amount was taken as advance against the sale of property while no evidence for sale of property were produced before the AO during assessment proceedings?

4) Whether on the facts and circumstances of the case the Ld. CIT(A) was justified in deleting the addition when the assessee has claimed that the amount was taken as advance against the sale of property as the assessee was in financial crunch whereas on the same day, assessee had transferred the money for purchases of shares?

5) That the department craves to add or amend the grounds of appeal before Hon'ble ITAT is finally heard or disposed of."

5. The ld. DR has primarily relied the assessment orders submitting that the claim of the assessee is a subsequent afterthought story and the AO has rightly doubted the genuineness of the transaction as it was a case of wrong tipping of funds and money laundering. The ld. AR, at the same time, relied the orders of the ld.CIT(A) and reasserted the submissions which were made

before the Id.CIT(A) that while getting the advance of sale of property, even TDS was deducted.

6. We have given thoughtful consideration to the material on record and are of the considered view that the Id. AO on the basis of use of the funds has doubted the transaction and alleged it to be not genuine. However, the Id.CIT(A) has duly taken into consideration the fact that the prospective purchaser had deducted TDS of Rs.2,50,000/- being 1% of Rs.2.50 crores and the same was duly deposited on 31.03.2016 and a copy of Form 26QB was also filed before the Id.AO and the assessee had received Rs.2,47,50,000/- which is reflected in the bank account statements. Thus, that sufficiently repels the contention of the Id. DR and also of the AO that the assessee has raised an afterthought story. As a matter of fact, the prospective sale was between two related parties or family holdings wherein it was mutually agreed upon to enter into a written agreement after the receipt of complete transaction value. Merely because there was an oral agreement that cannot be the basis to doubt something which is otherwise substantiated by documentary evidences and conduct of parties. The assessee's claim has been that the assessee required money to meet its liabilities and expenses and, accordingly, had agreed to sell a portion of its land, but, certain hic ups in regard to getting approval from Greater Noida Authorities that deal could not be materialized. This specific assertion of

the assessee has not been rebutted by the AO by any independent inquiry and it can be seen that the AO, on the basis of human probabilities, doubted the transaction. We are of the considered view that when identity and credit worthiness are not disputed, it is not justified to doubt the transaction between the related parties within family holdings. Thus, the grounds raised by the Revenue have no substance. The appeal of the Revenue is dismissed.

Order pronounced in the open court on 31.07.2025.

Sd/-

(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Sd/-

(ANUBHAV SHARMA)
JUDICIAL MEMBER

Dated: 31st July, 2025.

dk

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asstt. Registrar, ITAT, New Delhi