



IN THE INCOME TAX APPELLATE TRIBUNAL, RANCHI BENCH, RANCHI

BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER AND
SHRI RATNESH NANDAN SAHAY, ACCOUNTANT MEMBER

ITA No. 02/Ran/2025
(Assessment Year: 2015-16)

Divya Engicon Private Limited, Divya Place, Bhagalpur Road, Opp.- Rajdoot Showroom, Dumka-814101 (Jharkhand) PAN No. AADCD 2053 Q	Vs.	I.T.O., Deoghar.
Appellant/ Assessee		Respondent/ Revenue

Assessee represented by	Shri Devesh Poddar, AR.
Department represented by	Shri Khubchand T. Pandya, Sr.DR
Date of hearing	21/08/2025
Date of pronouncement	21/08/2025


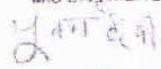
ORDER

PER: BENCH

1. This is an appeal filed by the assessee against the order of the Id. CIT(A), NFAC, Delhi in Appeal No. CIT(A), Dhanbad/10119/2019-20 dated 05/08/2024 for the A.Y. 2015-16.
2. Shri Devesh Poddar, Id. A.R. is represented on behalf of the assessee and Shri Khubchand T. Pandya, Id. Sr. DR is represented on behalf of the revenue.
3. It was submitted by the Id. AR that the assessment of the assessee has been reopened by issuance of notice under Section 148 of the Act. The Id. Authorised Representative drew our attention to page No. 1 of the assessment order para 2 wherein the Assessing Officer has mentioned that

the proposal for reopening had been sent to the Pr.CIT, Dhanbad and the approval has been taken from the Pr.CIT, Dhanbad. It was a submission that the impugned assessment year is 2015-16 and the notice under Section 148 has been issued on 25/03/2019 which is within four years period from the end of the relevant assessment year. It was a submission that when the reopening is done in respect of the an assessment year and the reopening is done within four years from the end of the relevant assessment year, the approval is to be taken from the Id. JCIT/Addl.CIT. It was a submission that the approval having been taken from the Pr.CIT is erroneous and the reopening is liable to be quashed on that ground. It was a further submission that even on merits, the reopening has been done for the reasons that the assessee has introduced ₹ 25.00 lacs towards allotment of shares including share premium. It was a submission that the assessee has not received such share application money. The Id. AR drew our attention to the balance sheet as on 31/03/2015 and 31/03/2014 which reads as follows:

ANNEXURE D

MIS DIVYA ENGICON PRIVATE LIMITED			
BALANCE SHEET AS ON 31ST MARCH, 2015			
(Amount in RS.)			
Particulars	Note	AS AT	
		MARCH 31, 2015	MARCH 31, 2014
EQUITY AND LIABILITIES			
Shareholders' Funds			
Share Capital	1	2,500,000.00	2,500,000.00
Reserves and Surplus	2	1,829,056.00	192,633.00
Share Application money pending allotment			
Non-Current Liabilities			
Long-Term Borrowings	3		
Deferred Tax Liabilities (Net)	4		
Other Long Term Liabilities	5		
Long Term Provisions			
Current Liabilities			
Short-Term Borrowings	6	20,142,220.00	3,230,096.00
Trade Payables	7	3,291,488.00	3,779,775.00
Other Current Liabilities	8	16,050.00	10,000.00
Short-Term Provisions	9	873,523.00	93,690.00
Total		28,601,287.00	5,605,594.00
ASSETS			
Non-Current Assets			
Fixed Assets	10		
Tangible Assets		105,269.00	105,269.00
Intangible Assets			
Capital work-in progress			
Prepaid Expenses			
Non-current investments			
Long-term loans and advances	11	3,040,622.00	250,000.00
Other non-current assets	12		
Current Assets			
Current investments		265,121.00	399,156.00
Inventories	13		282,163.00
Trade receivables	14		
Cash and Bank Balances	15	13,983,708.00	8,055,708.00
Short-term loans and advances	16	10,239,321.00	
Other Current assets	17	991,255.00	113,300.00
Total		28,601,287.00	5,605,594.00
Significant Accounting Policies			
Notes on Financial Statements		1 to 32	
As per our Report of even date			
FOR SANJAY RAM SAKAL & CO CHARTERED ACCOUNTANTS		MIS DIVYA ENGICON PRIVATE LIMITED	
			
(CA SANJAY KUMAR) PARTNER		(DIRECTOR)	
Membership No. : 058712 Firm Reg. No. : 323659E		(DIRECTOR)	
Place: BHAGALPUR			
Dated: The 12th day August of 2015			

NOTE 1: SHARE CAPITAL

(Amount in RS)

Particulars	As at	
	MARCH 31, 2015	MARCH 31, 2014
AUTHORIZED March 31, 2015: 250000 Equity Shares of Rs. 10/- each	25,000,000.00	25,000,000.00
	25,000,000.00	25,000,000.00
ISSUED, SUBSCRIBED & PAID UP CAPITAL To the Subscribers of the Memorandum March 31, 2015: 250000 Equity Shares of Rs. 10/- each	2,500,000.00	2,500,000.00
Total	2,500,000.00	2,500,000.00

(a) Reconciliation of number of shares

Particulars	As at MARCH 31, 2015		As at MARCH 31, 2014	
	No. of Shares	Amount	No. of Shares	Amount
Balance as at the beginning of the year	250,000	2,500,000.00	15,000	150,000.00
Additional shares issued during the year			235,000	2,350,000.00
Balance as at the end of the year	250,000	2,500,000.00	250,000	2,350,000.00

(b) Details of shares held by shareholders holding more than 5% of the aggregate shares in the Company

Name of Shareholders	As at MARCH 31, 2015		As at MARCH 31, 2014	
	No. of Shares held	% Holding	No. of Shares held	% Holding
1. PUNAM DEVI	113,000	45.20%	150,000	60.00%
2. ANIL KESHU	60,000	24.00%	20,000	8.00%
3. GUMAN KUMAR GUBBAN	20,000	8.00%	20,000	8.00%
4. Raju Kumar	15,000	6.00%	15,000	6.00%
5. Tulsi Kumar	15,000	6.00%	15,000	6.00%
6. Mahabir Yadav	10,000	4.00%	10,000	4.00%

NOTE 2: RESERVES AND SURPLUS

Particulars	As at	
	MARCH 31, 2015	MARCH 31, 2014
Securities Premium Account		
Balance as at the beginning of the year		
Add: Shares issued during the year		
Balance as at the end of the year		
Surplus in Statement of Profit and Loss		
Balance as at the beginning of the year	192,633.00	0.00
Profit for the year	1,033,423.00	192,633.00
Less: Appropriations	1,826,856.00	192,633.00
Balance as at the end of the year	1,539,200.00	192,633.00
Total		

NOTE 3: LONG TERM BORROWINGS

PARTICULARS	As at	
	MARCH 31, 2015	MARCH 31, 2014
Secured: Term Loan		
Others		
Total		

EXURE C

MIS DIVYA ENGICON PRIVATE LIMITED

BALANCE SHEET AS ON 31ST MARCH, 2014

(Amount in RS.)

Particulars	Note	AS AT	
		MARCH 31, 2014	MARCH 31, 2013
EQUITY AND LIABILITIES			
Shareholders' Funds			
Share Capital	1	2,500,000.00	150,000.00
Reserves and Surplus	2	192,633.00	62,689.00
Share Application money pending allotment		-	-
Non-Current Liabilities			
Long-Term Borrowings	3	-	-
Deferred Tax Liabilities (Net)	4	-	-
Other Long Term Liabilities	5	-	-
Long Term Provisions		-	-
Current Liabilities			
Short-Term Borrowings	6	3,230,096.00	-
Trade Payables	7	3,779,775.00	-
Other Current Liabilities	8	10,000.00	12,000.00
Short-Term Provisions	9	93,090.00	-
Total		9,805,594.00	99,331.00
ASSETS			
Non-Current Assets			
Fixed Assets			
Tangible Assets	10	105,269.00	-
Intangible Assets		-	-
Capital work-in-progress		-	42,500
Preiminary Expenses		-	-
Non-current investments		-	-
Long - term loans and advances	11	250,000.00	-
Other non-current assets	12	-	-
Current Assets			
Current Investments		399,156.00	-
Inventories	13	-	-
Trade receivables	14	262,163.00	-
Cash and Bank Balances	15	8,655,708.00	56,731.00
Short-term loans and advances	16	-	-
Other Current assets	17	113,300.00	-
Total		9,805,594.00	99,331.00

Significant Accounting Policies
Notes on Financial Statements
As per our Report of even date

1 to 32

FOR SANJAY RAM SAKAL & CO
CHARTERED ACCOUNTANTS

[Signature]

(CA SANJAY KUMAR)
PARTNER
Membership No. : 058712
Firm Reg. No. : 323659E

MIS DIVYA ENGICON PRIVATE LIMITED

[Signature]
(DIRECTOR)

(DIRECTOR)

Place: BHAGALPUR
Dated: The 10 th day August of 2014

NOTE 1: SHARE CAPITAL

(Amount in RS)

Particulars	As at	
	MARCH 31, 2014	MARCH 31, 2013
AUTHORISED: (March 31, 2014) 2500000 Equity Shares of Rs. 10/- each	25,000,000.00	2,500,000.00
	25,000,000.00	2,500,000.00
ISSUED, SUBSCRIBED & PAID UP CAPITAL <i>To the Subscribers of the Memorandum</i> (March 31, 2014) 2500000 Equity Shares of Rs. 10/- each	2,000,000.00	15,000.00
Total	2,500,000.00	150,000.00

(a) Reconciliation of number of shares

Particulars	As at MARCH 31, 2014		As at MARCH 31, 2013	
	No. of Shares	Amount	No. of Shares	Amount
Balance as at the beginning of the year	15,000	150,000.00	15,000	150,000.00
Add: shares issued during the year	235,000	2,350,000.00		
Balance as at the end of the year	250,000	2,500,000.00	15,000	150,000.00

(b) Details of shares held by shareholders holding more than 5% of the aggregate shares in the Company

Name of Shareholders	As at MARCH 31, 2014		As at MARCH 31, 2013	
	No. of Shares held	% Holding	No. of Shares held	% Holding
1. PUNAM DEVI	130,000	52.00	5,000	33.33
2. ANIL RAKESH	50,000	20.00	5,000	33.33
3. SUMAN KUMAR SUMAN	25,000	10.00	5,000	33.33
4. Pooja Katar	15,000	6.00		
5. Pratik Kumar	15,000	6.00		
6. Makshata Yadav	15,000	6.00		

NOTE 2: RESERVES AND SURPLUS

Particulars	As at	
	MARCH 31, 2014	MARCH 31, 2013
Securities Premium Account Balance as at the beginning of the year		-
Add: Shares issued during the year		
Balance as at the end of the year		
Surplus in Statement of Profit and Loss Balance as at the beginning of the year	62,699.00	(47,126.00)
Profit for the year	200,174.00	(15,541.00)
Add: Appropriations	17,158.00	
Balance as at the end of the year	192,633.00	62,699.00
Total	192,633.00	62,699.00

NOTE 3: LONG TERM BORROWINGS

PARTICULARS	As at	
	MARCH 31, 2014	MARCH 31, 2013
Secured: Term Loan		
Others		
Total		

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Nature of Security and terms of repayment for secured borrowings

Nature of Security	Terms of Repayment

It was a submission that the balance sheet clearly showed that there was no increase in the share capital of the assessee from that of 31/03/2014. It was a further submission that even in the assessment order, the Assessing Officer

does not make any reference to from whom the assessee has received the said share application money. It was a submission that even on merits, the addition itself was not called for.

4. In reply, the Id. Sr.DR vehemently supported the order of the Assessing Officer and the Id. CIT(A)
5. We have considered the rival submissions. Admittedly, when the reopening is being done within four years from the end of the relevant assessment year, the approval for the reopening is to be taken from the JCIT/Addl.CIT. In the present case, the approval has been taken from the Pr.CIT, Dhanbad. The Hon'ble Bombay High Court in the case of CIT Vs. Aquatic Remedies (P) Ltd. (2018) 406 ITR 545 (Bom) had categorically held that where the reopening is to be done by a specified authority, the same cannot be done by any other authority even if it is a superior authority. This being so, respectfully following the decision of the Hon'ble Bombay High Court in the case of CIT Vs. Aquatic Remedies (P) Ltd. (supra) which has been approved by Hon'ble Supreme Court 113 taxmann.com 451 (SC), the reopening as done in the impugned appeal stands quashed.
6. Further even on merits, a perusal of the balance sheet clearly shows that the assessee has not received the share capital nor introduced such share capital during the impugned assessment year. Therefore, the reopening itself as also the addition in the assessment is reopening is on a wrong information and the addition as made is also not sustainable in so far as the assessee has not received such share applicable money.

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

Order announced in open court on 21st August, 2025.

Sd/-
(RATNESH NANDAN SAHAY)
ACCOUNTANT MEMBER

Sd/-
(GEORGE MATHAN)
JUDICIAL MEMBER

Ranchi, Dated: 21/08/2025

**Ranjan*

Copy to:

1. Assessee
2. Revenue
3. CIT
4. DR
5. Guard File

By order

निष्पक्ष सुलभ

सत्वर

Sr. Private Secretary, ITAT, Ranchi

