

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

**Before**

**SHRI GEORGE MATHAN, JUDICIAL MEMBER  
&  
SHRI RAKESH MISHRA, ACCOUNTANT MEMBER**

**I.T.A. No.: 1604/KOL/2025  
Assessment Year: 2009-10**

|   |     |  |
|---|-----|--|
| Melco Sales Private Limited<br><i>(Appellant)</i> | Vs. | ITO, Ward-9(1), Kolkata<br><i>(Respondent)</i> |
| <b>PAN: AABCM7123N</b>                            |     |  |

**Appearances:**

**Assessee represented by** : R. K. Malpani, FCA, AR.

**Department represented by** : Sandip Sarkar, JCIT, Sr. DR.

Date of concluding the hearing : 27-October-2025

Date of pronouncing the order : 30-October-2025

**ORDER**

**PER RAKESH MISHRA, ACCOUNTANT MEMBER:**

This appeal filed by the assessee is against the order of the Commissioner of Income Tax (Appeals)-NFAC, Delhi [hereinafter referred to as Ld. 'CIT(A)'] passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for AY 2009-10 dated 23.05.2025, which has been passed against the assessment order u/s 147/144 of the Act, dated 27.12.2016.

2. The assessee is in appeal before the Tribunal raising the following grounds of appeal:

*“(1) That on the facts and in the circumstances of the case as well as in law, Id. CIT (A), NFAC, Delhi [CIT (A)] has erred in dismissing the appeal of the appellant by not admitting the same on the ground of delay in filing of the appeal without 'sufficient cause', whereas there was sufficient cause of*



*'non-receipt of the assessment order and unawareness of appellant about the assessment proceeding carried out', which was clearly mentioned in the application filed for condoning the delay and for which sufficient evidences were furnished to Id. CIT (A).*

*(2) That on the facts and in the circumstances of the case as well as in law, Id. CIT (A) has erred in dismissing the appeal of the appellant by not admitting the same on the ground of delay, whereas the appeal was already heard on merits and remand report was called from the AO on merits. Dismissing the appeal on the ground of delay is clearly based on change of opinion and is wrong and unjustified, as it has resulted into depriving appellant for remedy of justice despite the fact of non-receipt of assessment order by appellant.*

*(3) That on the facts and in the circumstances of the case as well as in law, Id. CIT (A) has erred in upholding the validity of re-opening of case of appellant by dismissing the appeal as unadmitted, whereas the re-opening of the case of appellant and entire assessment proceeding carried out u/s 147/148 of the I.T. Act, 1961 (the Act) and consequent assessment order passed are clearly invalid, bad in law and contrary to the settled law. Appellant prays for quashing the same.*

*(4) That on the facts and in the circumstances of the case as well as in law, Id. CIT (A) has erred in upholding the validity of the assessment order passed u/s 144/147 of the Act by dismissing the appeal of appellant as unadmitted, whereas the assessment order so passed is clearly invalid, bad-in-law and beyond the law and was not served on appellant within stipulated time limit.*

*5) That on the facts and in the circumstances of the case as well as in law, Id. CIT (A) has erred in upholding the huge presumptive addition of Rs. 3,66,28,000/- u/s 68 of the Act by dismissing the appeal of appellant as unadmitted, whereas the appellant has not received any amount from so called M/s. Heaven Sales Pvt. Ltd. and the addition has been made presumptively without giving any opportunity to the appellant. Addition so*



*made is grossly wrong and unjustified. Appellant prays for deleting the same.*

*(6) That on the facts and circumstances of the case as well as in law, the interest charges by ld. A.O. u/s. 234B and 234D of the Act is wrong and unjustified and Id. CIT (A) has erred in upholding the same by dismissing the appeal of the appellant as unadmitted.*

*(7) Appellant craves leave to add, alter, delete or modify any ground of appeal.”*

3. Brief facts of the case are that the assessment of the assessee was reopened by issuing notice under section 148 of the Act as information had been received from credible sources regarding cash deposited in a number of dubious accounts. These concerns were found to be paper concerns having no real existence or real business. On examination and analysis of the bank statements, it was found that unaccounted cash had been frequently deposited in the bank accounts, which was immediately transferred through RTGS to the interlinked accounts and then ultimately to the beneficiary's accounts. It was observed that a sum of ₹ 3,66,28,000/- had been transferred into the accounts of the assessee and on every occasion cash was deposited in the bank accounts of M/s Heaven Sales Pvt. Ltd. and transferred immediately or after one or two days to the account of different layering accounts and finally to the accounts of M/s. Melco Sales Pvt. Ltd. Despite several opportunities being offered to the assessee, no satisfactory explanation was filed and accordingly a sum of ₹ 3,66,28,000/- was added under section 68 of the Act and the total income was assessed at ₹ 3,66,44,502/- and the book profit was assessed under section 115JB at ₹ 16,502/-. Aggrieved with the assessment order, the assessee filed an appeal before the Ld. CIT(Appeals) who dismissed the appeal of the



assessee on account of delay. Aggrieved with the order of the Ld. CIT(Appeals), the assessee has filed the appeal before the Tribunal.

4. We have heard the rival contentions and perused the material available on record. The Ld. AR submitted that no physical notice issued by the Ld. AO was received by the assessee. It was submitted that the remand report proceedings had been started by the Ld. CIT(A) but the appeal was dismissed on account of delay. The Ld. DR relied upon the order of the appellate authority and requested that the same may be confirmed. It was stated that in the ITR the assessee had filed the same address and the plea was not acceptable on this ground. The Ld. AR countered that the address in the return was the old address and the assessee came to know of the demand in the year 2024 and was unaware of the reassessment proceedings. It was also stated that the address mentioned on the assessment order is not of the assessee and the notices were sent at the wrong address.

5. We have considered the rival submissions and have also gone through the facts of the case and the documents filed. We have noted, as submitted by the Ld. AR, that a remand report was called for from the Ld. AO, which implied that the delay had been condoned by the Ld. CIT(Appeals) and the appeal had been admitted for adjudication. Therefore, there was no justification for dismissing the appeal on account of delay. However, since the assessment order is also made *ex parte* as no proper submission was made before the Ld. AO, therefore, in the interest of justice and fair play it was considered appropriate to remand the matter to the Ld. AO for framing the assessment afresh after according an opportunity of being heard to the assessee. Accordingly, the order of the Ld. CIT(A) is hereby set aside and the matter is



remanded to the Ld. AO for making the assessment *de novo*. The assessee shall be provided an opportunity of being heard by providing the reasons for reopening of the assessment so as to enable it to make proper submission. Accordingly, all the grounds taken in the appeal are allowed for statistical purposes.

6. In the result, the appeal is allowed for statistical purposes.

**Order pronounced in the open Court on 30<sup>th</sup> October, 2025.**

*Sd/-*

**[George Mathan]**  
Judicial Member

*Sd/-*

**[Rakesh Mishra]**  
Accountant Member

Dated: 30.10.2025

*Bidhan (Sr. P.S.)*



*Copy of the order forwarded to:*

1. **Melco Sales Private Limited, 501, Plot No. 479, Kohinoor Building, Leo Apartment, A Wing, 24<sup>th</sup> Road, Khar (W), Khar Colony, Mumbai, Maharashtra, 400052.**
2. **ITO, Ward-9(1), Kolkata.**
3. CIT(A)-NFAC, Delhi.
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata.
6. Guard File.

*// True copy //*

By order

Assistant Registrar  
ITAT, Kolkata Benches  
Kolkata