

आयकर अपीलीय अधिकरण, मुंबई न्यायपीठ “जी” मुंबई
IN THE INCOME TAX APPELLATE TRIBUNAL “G” BENCH, MUMBAI

श्री सी. एन. प्रसाद, न्यायिक सदस्य एवं श्री राजेश कुमार, लेखा सदस्य के समक्ष
BEFORE SHRI C.N. PRASAD, JM AND SHRI RAJESH KUMAR, AM

ITA NO.316/Mum/2016
(निर्धारण वर्ष / Assessment Year: 2008-09)

M/s Eastern Oceanic Impex Pvt Ltd., 109, Parasram Building, Dr.Babasaheb Jayakar Marg, Mumbai-400002	बनाम/ Vs.	Income Tax Officer, 4(1)(4) , Room No.637A, 6 th floor, Aayakar Bhavan, M K Road, Mumbai-400020
स्थायी लेखा सं./जीआइआर सं./ PAN : AAACE0981B		
(अपीलार्थी /Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओर से / Appellant by	:	None
प्रत्यर्थी की ओर से/Respondent by	:	Shri G Nantha Kumar

सुनवाई की तारीख /Date of Hearing	:	26.12.2016
घोषणा की तारीख /Date of Pronouncement	:	29.12.2016

आदेश / ORDER

PER RAJESH KUMAR, A. M:

This is an appeal filed by the assessee challenging the order dated 26.10.2015 passed by the Id.CIT(A)-9, Mumbai for the assessment year 2008-09.

2. This appeal was fixed for hearing on 3.10.2016 and at the time of hearing neither the assessee nor his authorized representative appeared to attend the hearing despite service of notice through RPAD. Therefore, Bench directed the registry to issue notice to the assessee and adjourn the

appeal for hearing on 26.12.2016. Today also despite service of notice, neither the assessee appeared before us nor there is any application on behalf of the assessee seeking adjournment or otherwise. Therefore, we proceed to adjudicate the appeal filed by the assessee ex-parte after hearing the Id.DR and on the basis of material available on record.

3. The facts of the case are that the assessee filed return of income on 17.9.2008 declaring a loss of Rs.41,069/-. The AO, thereafter received information from the Addl. DIT, Unit -1, Mumbai vide letter dated 12.09.2011 stating that search and seizure action under section 132 of the Income Tax Act, 1961 was conducted in the case of M/s Mahasagar Securities Pvt Ltd (now known as Alag Securities Pvt Ltd) and its group companies which were found to be engaged in the business of issuing bogus bills. Upon verification of the said information, the AO found that the assessee has received Rs.15 lakhs from M/s Buniyad Chemicals Ltd and Rs.10 lakhs from M/s Talent Infoway Ltd a group concern of Mr.Mukesh Chokshi, as share application money for equity shares and accordingly during the year 2008-09, 3000 and 2000 equity shares were issued to M/s Buniyad Chemicals Ltd and Talent Infoway Ltd. respectively. Accordingly, the AO came to the conclusion that there were strong reasons to believe that Rs.25 lakhs received from these companies were unaccounted money routed through these though share application money entries provided by the above said two companies. Accordingly, the case

of the assessee was reopened by issuing notice under section 148 of the Act dated 27.3.2012. In response thereto the assessee vide letter dated 29.3.2012 filed reply and thereafter statutory notices u/s 143(2) and 142(1) were issued and served upon the assessee. Finally, the assessment was completed by making addition of Rs.25 lakhs to the total income of the assessee vide assessment order dated 5.3.2013 by assessing the income of the assessee at Rs.24,56,358/- passed under section 143(3) r.w.s.147 of the Act. In the Appellate proceedings, the Id.CIT(A) also upheld the action of the AO by holding that the appellant failed to prove genuineness of the transactions in relation to application money of Rs.25 lakhs and therefore upheld the addition made by the AO u/s 69A of the Act after giving detailed and comprehensive observation from para 3 and 4 of the appellate order.

4. We have carefully considered the contentions of the Id.DR and perused the material available before including the orders of authorities below. We find that the assessee has received Rs.25 lakhs from two companies as share application money who were engaged in issuing fraudulent and bogus bills as found during the search conducted by the Add.ADIT, Mumbai and assessee was one of the beneficiaries of the said fraudulent billing. Thereafter the case of the assessee was reopened and addition was made under section 69 of the Act. In the FAA, the Id. CIT(A) also confirmed the action of the AO by giving detailed observations. The

order of FAA appears to be correct and reasoned order as the Id.FAA considered all the aspects of the matter. Moreover, there is no material on record to controvert the findings of the revenue authorities and therefore, we are inclined to uphold the order of Id.CIT(A) by dismissing the appeal of the assessee.

5. In the result, the appeal of the assessee is dismissed.

Order pronounced in the open court on 29th Dec,2016

(C.N. Prasad)

न्यायिक सदस्य / Judicial Member

(Rajesh Kumar)

लेखा सदस्य / Accountant Member

मुंबई Mumbai; दिनांक Dated : 29.12.2016
SRL,Sr.PS

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. आयकर आयुक्त(अपील) / The CIT(A)
4. आयकर आयुक्त / CIT – concerned
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard File

आदेशानुसार/ BY ORDER,

True copy

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai