
(2017) 02 DEL CK 0105
In the Delhi High Court
Case No : ITA 348 of 2016

Paramount Intercontinental Pvt. Ltd. APPELLANT
Vs
ITO Ward-14(1) RESPONDENT

Date of Decision : 07-02-2017

Acts Referred:

Income Tax Act, 1961 — Section 131, Section 147, Section 148, Section 260A

Citation : (2017) 392 ITR 505

Hon'ble Judges : Mr. S. Ravindra Bhat and Mr. Najmi Waziri, JJ.

Bench : Division Bench

Advocate : Sh. Deepanshu Jain and Sh. Gaurav Mittal, Advocates, for the Appellant; Sh. Sanjay Kumar, Jr. Standing Counsel, for the Respondent

Final Decision : Dismissed

Judgement

1. This is the assessee's appeal under Section 260A of the Income Tax Act, 1961 [hereafter "the Act"] which questions an order of the Income Tax Appellate Tribunal (ITAT). The assessee submits that the ITAT fell into error in upholding the reassessment proceedings under Sections 147/148 of the Act.

2. The assessee was subjected to scrutiny assessment for AY 2001-02. In that year, it had issued additional share capital and received money from its investors. The scrutiny assessment was completed without significant additions. The reassessment notice was issued on 26.03.2008. The reassessment notice stated that information had been received in the Investigation Wing indicating that the assessee was the beneficiary of accommodation entries from certain established "entry operators". The relevant extract of the "Reasons to Believe" in support of Notice under Sections 147/148 is as follows :

"Reasons for issuing notice u/s 148 of the Act in the case of M/s. Paramount Intercontinental (P) Ltd., for the AY 2001-02 - reg.

In this case, assessment was completed u/s 143(3)(ii) on 14.02.2003 accepting the returned income of Rs.56,025/-.

Information has been received from the Investigation Wing of the Income Tax Department that the above named assessee is a beneficiary of accommodation entries received from certain established entry operators identified by the wing during the period relevant to AY 2001-02. A comprehensive investigation was carried out by the Investigation Wing for identification of entry operators engaged in the business of money laundering for the beneficiaries and on the basis of investigation, carried out and evidences collected, a report has been forwarded. I have perused the information contained in the report and the evidences gathered. The report provides details of the modus operandi of the "money laundering scam" and explain how the unaccounted money of the beneficiaries are ploughed back in its books of account in the form of bogus share capital/capital gains, etc. after routing the same through the bank account(s) of the entry operators. Entry operators were identified after through investigation on the basis of definitive analysis of their identity, credit worthiness and the source of the money ultimately received by the beneficiaries. These entry operators are found to be mostly absconding after the unearthing of the "Money Laundering Scam" leaving the said money at the disposal of the beneficiaries without any associated cost or liability. In the instant case, the assessee is found to be beneficiary of accommodation entry from such entry operators as per the following specific details of transaction :-

XXXXXX XXXXXX XXXXXX

The assessee has received unexplained sums from the entry operators as per the above details as per information available with the undersigned. As explained above, the identity, creditworthiness and genuineness of transactions with the persons found to be entry operators cannot be established. I, therefore, have reasons to believe that on account of failure on the part of the assessee to disclose truly and fully all material facts necessary for assessment for above assessment year, the income chargeable to tax to the extent of accommodation entry mentioned above, has escaped assessment within the meaning of Section 147 of the Act.

Since four years has since expired from the end of the relevant assessment years, and the scrutiny assessment was completed u/s 143(3) in this case for the said assessment year, the reasons recorded above for the purpose of reopening of assessment is put up for kind satisfaction of CIT, Delhi-V, New Delhi, in terms of the proviso to Section 151(1) of the Act."

3. The assessee contested the reassessment proceedings, both on the merits as well as on the reassessment. The Assessing Officer (AO), however, rejected the objection to reassessment as well as its position on the merits and added Rs.10 lakhs under Section 68 of the Act in the reassessment. This was upheld by the CIT(A). The ITAT too rejected the assessee's appeal.

4. It is contended that the ITAT fell into error in not appreciating that the material could not be said to indicate any tangible document or thing authorising

the reopening of a completed assessment. Learned counsel emphasized that all details with respect to the assessee/applicant's particulars, such as addresses, confirmation letters, PAN details, bank details etc. had been produced and in the circumstances, the assessee already having gone through a scrutiny assessment could not have been subjected to reassessment leading to additions.

5. The "Reasons to Believe" extracted by this Court in the previous part of this judgment clearly shows that specific information with respect to the nature of the credits received by the assessee from known entry operators had been shown to the AO while recording his satisfaction in the issuance of notice under Sections 147/148. In these circumstances, the reassessment notice could not have been questioned. As to the merits, we notice that in the reassessment proceedings, the assessee was unable to satisfactorily explain the correctness of the entries in question. The share applicants appeared to be not in existence and did not answer summons issued under Section 131 of the Act. Furthermore, given that the findings are concurrent by three lower authorities and relate to questions of fact, this Court is of the opinion that no question of law arises. The appeal is accordingly dismissed.