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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of Decision : 09.07.2025*

+ **ITA 205/2025 & CM APPL.39138/2025**

MEENAKSHI GUPTAAppellant

Through: Mr Sankalp Malik, Advocate.

versus

INCOME TAX OFFICER, WARD- 35(6),
NEW DELHI

.....Respondent

Through: Mr Sanjay Kumar, SSC with Ms
Monica Benjamin, JSC.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MR. JUSTICE TEJAS KARIA

VIBHU BAKHRU, J. (ORAL)

1. The appellant [Assessee] has filed the present appeal under Section 260A of the Income Tax Act, 1961 [the Act] impugning an order dated 06.01.2025 passed by the learned Income Tax Appellate Tribunal [ITAT] in ITA No.4710/Del/2024 in respect of Assessment Year [AY] 2012-13. The Assessee had preferred the aforesaid appeal [ITA No.4710/Del/2024] against an order dated 09.02.2024 passed by the Commissioner of Income Tax (Appeals)/National Faceless Appeal Centre [CIT(A)]. The Assessee had preferred the said appeal impugning an assessment order dated 23.12.2019 passed under Section 143(3) read with Section 147 of the Act. The assessment for the AY 2012-13 had been reopened by the Assessing



Officer [AO] by issuing a notice under Section 148 of the Act on 30.03.2019. The said notice was premised on information received from Investigation Wing, which had reported that the Assessee was a beneficiary of receipt of an amount of ₹25 lakhs from an account of one M/s Oxygen Projects Pvt. Ltd. Enquiries regarding the said company revealed that a sum of ₹15.70 crores had passed through its bank account during the Financial Years 2009-10 to 2014-15. Enquiries into the income tax returns of the said company revealed that the revenue from the operations during the said FYs was NIL.

2. The relevant extract of the reasons to believe that the income of the Assessee has escaped assessment which sets out the reasons for doubting the identity, genuineness and the creditworthiness of M/s Oxygen Projects Pvt. Ltd. is set out below:

“Identity, Genuineness and Credit worthiness of M/s Oxygen Projects Pvt. Ltd.

4. A perusal of the Income Tax Returns of the M/s Oxygen Projects Private Limited revealed that no business operations are carried out by the company. The business profile of the company as gathered from the ITBA system is tabulated as under:

F.Y.	Total Revenue from operations	Profit Before Tax (Rs.)
2009-10	Nil	(-) 20,980/-
2010-11	Nil	(-) 18,131/-
2011-12	Nil	6,803/-
2012-13	Nil	52,360/-
2013-14	Nil	(-) 34/-
2014-15	Nil	(-) 36,538/-

4.1 From the above table it can safely be inferred that the subject company is merely a paper concern and is not involved



in any real business activity. The pattern of transactions appearing in the bank account suggests that account is used for providing accommodation entries to the actual beneficiaries.

5. In order to identify the actual beneficiaries, the concerned bank was asked to furnish the details of beneficiaries to which amount of more than Rs. 5 lakh has been debited.

5.1 The details of beneficiaries as provided by the bank authorities for F.Y. 2011-12 are tabulated as under:

S.No.	Name	PAN	Total Amount Received by the beneficiary
1	Dev Raha Projects Pvt Ltd.	AADCD4767H	20,00,000/-
2	Raj Mentha Chem Pvt Ltd.	AACCR0099M	10,00,000/-
3	D Pal Leasing and Finance Co. Ltd.	AAACD3222C	20,00,000/-
4	D Pal Buildcon Pvt. Ltd.	AACCD7909A	10,00,000/-
5	V.B. Polymers Pvt. Ltd.	AACCV1692G	25,00,000/-
6	SDAG Infotech Pvt. Ltd.	AAQCS4695E	25,00,000/-
7	AVK Marketing Pvt. Ltd. (formerly known as AVK	AAPCA5262J	15,00,000/-



	Infotech Pvt. Ltd.)		
8	Konark Farms Pvt. Ltd.	AAACK2332A	10,00,000/-
9	SKD Metals Pvt. Ltd.	AAMCS7107H	30,00,000/-
10	Universal Polychem India Pvt. Ltd.	AAACU7033J	25,00,000/-
11	Meenakshi Gupta	AAHPG4320J	25,00,000/-
12	Sanjeev Bhardwaj	AEKPB4030K	50,00,000/-
13	Benika Builders India Pvt. Ltd.	AADCB6419Q	10,00,000/-
14	Yash Garg Properties Pvt. Ltd.	AAACY2610D	25,00,000/-
15	LM Polymers Pvt. Ltd.	AABCL5699J	10,00,000/-
16	Trackball Technology Pvt. Ltd.	AADCT6109R	1,36,50,000/-
17	S.B. Hospitality and Services Pvt. Ltd.	AAKCS7022D	40,00,000/-

6.2 Letters were issued to the above parties/persons calling for information in respect of their transactions with M/s Oxygen Projects Pvt. Ltd. and treatment thereof in their books.

6.3 Out of the above beneficiaries, 12 entities have filed their responses and remaining beneficiaries failed to file their responses.

6.4 Submissions filed by the above said 12 beneficiary entities is



summarized as under:

XXXX XXXX XXXX
(xi) **Meenakshi Gupta (PAN- AAHPG4320J):**

As per the response filed by **Ms. Meenakshi Gupta** vide letter dated Nil on 26.12.2018 (**Copy enclosed**), she is a partner in a firm M/s M.R.S. Corporation which is into the business of Audio Visual equipments and installation of Multi media classrooms etc. During the period F.Y. 2011-12, she has received interest free unsecured loan of Rs.25,00,000/- from M/s Oxygen Projects Pvt. Ltd. on 26.03.2012 and claimed that the same was repaid on 13.07.2012, 24.09.2012 and 27.09.2012 for Rs.10,00,000/-, Rs.10,00,000/- and Rs.5,00,000/- respectively through RTGS. A copy of confirmation from M/s Oxygen Projects Pvt. Ltd. has been submitted in support of its claim which is undated. In view of the fact that the genuineness and credit worthiness of M/s Oxygen Projects Pvt. Ltd. cannot be established, the unsecured loan of Rs.25,00,000/- is liable to be added to the income of **Ms. Meenakshi Gupta** for F.Y. 2011-12 relevant to A.Y.2012-13. Accordingly, the AO may be advised to take appropriate remedial action in the case of **Ms. Meenakshi Gupta** for F.Y. 2011-12 relevant to A.Y. 2012-13.”

3. The AO issued notices under Section 133(6) of the Act to M/s Oxygen Projects Pvt. Ltd. but the same were returned unserved. The appellant was also granted an opportunity to produce the Principal Officer of the said company but the Assessee failed to do so.
4. It is the Assessee's case that the Assessee had received ₹25 lakhs as unsecured loans but had also repaid the same in the next financial year [within the period of seven months from receipt of the loan]. However, the Assessee could not provide any explanation as to the identity of the persons in control of M/s Oxygen Projects Pvt. Ltd. There are no credible reasons provided as to why the said entity had given interest free loan to the Assessee.
5. In the aforesaid circumstances, the AO made an addition of the



amount of loan received during the relevant financial year as unexplained credit and passed an assessment order dated 23.12.2019 under Section 143(3)/147 of the Act.

6. The Assessee appealed the said assessment order before the learned ITAT. The Assessee sought to challenge the assessment order on the ground that the notice under Section 148 of the Act was issued without approval of the specified authority in addition to the validity of the reasons for reopening the assessment. However, the learned ITAT has rejected the same.

7. The learned ITAT did not find any fault with the assessment order and accordingly dismissed the appeal.

8. The learned counsel appearing for the appellant submits that the order passed by the learned ITAT is without application of mind as it proceeds on the basis that M/s Oxygen Projects Pvt. Ltd. is found to be an accommodation entry provider pursuant to the department's search action and the statement of its authorized person. Paragraph 5 of the impugned order is set out below:

“5. The Revenue has invited the tribunal's attention to the case records which sufficiently prove that the assessee had got an amount of Rs.25 lakhs transferred in her bank account from one entity M/s. Oxygen Projects Ltd. which was found to be an accommodation entry provider as per the department's search action as well as the statement of its authorized person which has been discussed in the reopening reasons.”

9. There is merit in the contention that the record does not indicate that there was any search or any finding returned pursuant thereto that M/s Oxygen Projects Pvt. Ltd. was an accommodation entry provider. The record also does not indicate that the statement of the authorised person of M/s



Oxygen Projects Pvt. Ltd. was recorded in any proceedings.

10. However, we do not consider it apposite to interfere with the order passed by the learned ITAT as the facts in the present case are undisputed. There is no explanation provided by the Assessee as to why the entity in question (Oxygen Projects Pvt. Ltd.) had furnished an interest free unsecured loan to the Assessee. There is also material on record to indicate that enquiries made by the department did not find the entity in question M/s Oxygen Projects Pvt. Ltd. operating from its office. Admittedly, the notices issued by the AO under Section 133(6) of the Act were returned unserved. The Assessee had not produced any authorised person to establish the real identity of persons controlling M/s Oxygen Projects Pvt. Ltd.

11. In the given facts, the finding of the learned AO that the Assessee had failed to establish the creditworthiness of M/s Oxygen Projects Pvt. Ltd and the genuineness of the transaction, cannot be faulted.

12. In our view, no substantial question of law arises for consideration of this court. The appeal is accordingly dismissed. Pending application is also disposed of.

VIBHU BAKHRU, J

TEJAS KARIA, J

JULY 9, 2025/tr