



**IN THE INCOME TAX APPELLATE TRIBUNAL,
MUMBAI BENCH "SMC", MUMBAI**

BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER

**ITA No.1110/M/2025
Assessment Year: 2014-15**

M/s. Sky Scraper Properties Private Limited, 613/B, Mangal Aarambh Kora Kendra, Borivali West, Mumbai- 400092 PAN: AABCS1761N	Vs.	Ward 13(2)(1), Mumbai, Aayakar Bhawan, Mumbai- 400001
(Appellant)		(Respondent)

Present for:

Assessee by : Mr. Bhupendra Shah, Ld. A.R.
Revenue by : Mr. P D Chougule, Ld. Sr. D.R.

Date of Hearing : 03.06.2025
Date of Pronouncement : 03.06.2025

O R D E R

Per : Narender Kumar Choudhry, Judicial Member:

This appeal has been preferred by the Assessee against the order dated 10.02.2025, impugned herein, passed by the Ld. Addl./Joint Commissioner of Income Tax (Appeals) (in short "Ld. Addl./Joint Commissioner") u/s 250 of the Income Tax Act, 1961 (in short 'the Act') for the A.Y. 2014-15.

2. In the instant case, the case of the Assessee was reopened by recording reasons for reopening u/s 147 of the Act with the allegations that the Assessee Company is one of the beneficiary companies to whom accommodation entries of Rs.8,10,000/- were provided by Shri Hasmukhlal Mehta, who has admitted in his statement recorded on oath u/s 131 of the Act dated 25.03.2014 during the course of survey action u/s 133A of the Act.

3. Though the Assessing Officer (AO) has made the additions of Rs.4,97,917/- and Rs.10,23,658/- on account of interest income received and interest paid respectively to Simandhar Developer and Mukta Builder and other entity, however, **admittedly** has not made any addition on the basis reason/issue, on which the case was reopened u/s 147/148 of the Act. Therefore, the addition made in the absence of substantive addition on the basis of reason for reopening of the case, is hit by the judgment of the Hon'ble Jurisdictional High Court in the case of Jetair (P.) Ltd. vs. Dy. Commissioner of Income Tax (2023) 148 taxmann.com 185 (Bombay) wherein it was held as under:

“16.....
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.....Section 147 has this effect that the Assessing Officer has to assess or reassess the income ("such income") which escaped assessment and which was the basis of the formation of belief and if he does so, he can also assess or reassess any other income which has escaped assessment and which, comes to his notice during the course of the proceedings. **However, if after issuing a notice under section 148, he accepted the contention of the assessee and holds that the income which he has initially formed a reason to believe had escaped assessment, has as a matter of fact not escaped assessment, it is not open to him independently to assess some other income.** If he intends to do so, a fresh notice under section 148 would be necessary, the legality of which would be tested in the event of a challenge by the assessee”.

4. Thus, on this count alone, the assessment order passed in pursuance to the notice dated 27.03.2019 u/s 148 of the Act, is liable to be quashed. Thus, the assessment order is quashed.

5. As this Court has quashed the assessment order, hence, is inclined not to delve into the other various legal issue, raised by the Assessee, along with merits of the case.

6. In the result, the appeal of the Assessee stands allowed.

Order pronounced in the open court on 03.06.2025.

**Sd/-
(NARENDER KUMAR CHOUDHRY)
JUDICIAL MEMBER**

* Kishore, Sr. PS

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.