

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'F': NEW DELHI

BEFORE SHRI G.D. AGRAWAL, VICE PRESIDENT, AND
SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER

ITA No. 330/Del /2014
Assessment Year: 2007-08

The D.C.I.T.
Central Circle - 21
New Delhi

Vs.

Smt Rajul Modi
E - 20, Lajpat Nagar - III
New Delhi

[Appellant]

PAN : AATPM 6927 F
[Respondent]

Date of Hearing : 17.05.2016
Date of Pronouncement : 25.05.2016

Appellant by : Shri Amrit Lal, Sr. DR
Respondent by : Shri R.S. Singhvi, CA

ORDER

PER CHANDRA MOHAN GARG, JUDICIAL MEMBER

This appeal filed by the Revenue is directed against the order of the CIT(A)-XII, New Delhi dated 28/10/2013 passed in first appeal No. 484/13-14 for A.Y 2008-09.

2. The Revenue has raised the following grounds of appeal:

“1. That the Id. CIT(A) has erred in law and on facts in deleting an addition on account of unconfirmed loan of Rs. 5 lakhs.

2. That the Id. CIT(A) has erred in law and on facts in deleting an addition on account of unconfirmed loan of Rs. 45 lakhs.

3. That the ld. CIT(A) has erred in law and on facts in deleting an addition of Rs. 72,760/- on account of disallowance u/s 14A of the Act

4(a) The order of the ld. CIT(A) is erroneous and not tenable in law and on facts”

3. At the time of hearing, at the very outset, it was conveyed to us that the issues raised in this appeal stand covered in favour of the assessee by the order of the Hon'ble High Court of Delhi dated 29.04.2016 passed in the case of Principal CIT Vs. Lata Jain for Assessment years 1998-99 and 1999-2000 in ITA Nos. 274 and 276/Del/2016, wherein the Hon'ble High Court upheld the order of the ITAT by relying on the decision of the Hon'ble High Court of Delhi in the case of CIT Vs. Kabul Chawla [2016] 380 ITR 573 [Delhi] and dismissed the appeals of the Revenue.

4. We have heard the rival submissions and have also gone through the Hon'ble High Court order [supra] and have also carefully treaded through the appellate order.

5. We find that against the order passed by the AO, the assessee was in appeal and the ld. CIT(A) has allowed the appeal of the assessee. Aggrieved, the Revenue went in appeal before

the Hon'ble High Court wherein their Lordships, at paras 5 to 8 of the order dated 29.4.2016, held as under:

“5. The short point involved is whether the ITAT was correct in concluding that there had to be incriminating material recovered during the search qua the Assessee in each of the years for the purposes of framing an assessment under Section 153A of the Act?

6. It is not in dispute that in respect of the Respondent Assessee for the AYs in question the initial assessment proceedings took place under Section 143(3) of the Act. Thereafter they were sought to be reopened by issuing notice under Section 147 of the Act and re-assessment orders were passed under Section 147 read with Section 143(3) of the Act. During both the aforementioned proceedings the question whether the gold and silver utensils were the capital assets or personal effects of the Assessee was examined. They were held not to be the personal effects.

7. It has been noticed by the ITAT in the impugned order that for the AYs in question no incriminating material qua the Assessee was found.

8. In that view of the matter, and in light of the decision of this Court in CIT v. Kabul Chawla [2016] 380 ITR 573 (Delhi), the Court is of the view that the impugned order of the ITAT suffers from no legal infirmity and no substantial question of law arises for determination. .”

6. After considering the findings of the Hon'ble High Court, we have clearly noticed that the issue raised in this appeal stands fully covered by the order of the Hon'ble High Court of Delhi dated 29.04.2016. Therefore, it is vividly clear from the above that the issue stands covered in favour of the assessee. Hence there is no merit in the grounds taken by the Revenue. Accordingly, respectfully following the above decision, we confirm the impugned finding of the Id. CIT(A) in this regard and dismiss the grounds raised in this appeal by the Revenue.

7. In the result, the appeal of the Revenue stands dismissed.

The order is pronounced in the open court on 25.05.2016.

Sd/-

**(G.D. AGARWAL)
VICE PRESIDENT**

Sd/-

**(C.M. GARG)
JUDICIAL MEMBER**

Dated: 25th May, 2016.

VL/

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,
ITAT, New Delhi