

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "G", NEW DELHI
BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER
AND
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER

ITA No. 6423/Del/2012
Assessment Year: 2005-06

SUNIL BEDI,
DIRECTOR, M/S JMD LIMITED
6, UPPER GROUND FLOOR,
DEVIKA TOWERS,
NEHRU PLACE,
NEW DELHI – 110 019
(PAN: AAAPB5748E)
(APPELLANT)

VS. ACIT, CENTRAL CIRCLE-II,
FARIDABAD

(RESPONDENT)

ITA No. 76/Del/2013
Assessment Year: 2005-06

DCIT, CENTRAL CIRCLE-II,
FARIDABAD

VS. SUNIL BEDI,
DIRECTOR, M/S JMD LTD.,
W-24, GREATER KAILASH
NEW DELHI – 48

Assessee by : Sh. Rajan Bhatia, Adv. & Sh. S.S. Kalra, CA
Department by : Sh. S.S. Rana, C IT(DR)

ORDER

PER H.S. SIDHU, JM

The Assessee and Department has filed Cross Appeals which are emanate from the common order dated 29.10.2012 of the Ld. CIT(A) (Central), Gurgaon pertaining to A.Y. 2005-06. Since the issues involved in these appeals are common and identical, hence, the appeals

were heard together and are being disposed of by this common order for the sake of convenience.

2. The grounds raised in Assessee's Appeal read as under:-

1. On the facts and circumstances applicable to the case the Ld. CIT(A) has failed to appreciate that the investment made have been fully explained and disallowance of Rs. 29,43,121/- confirmed without appreciating the information provided. Hence the addition is uncalled for.
2. Appellant craves leave to amend alter and delete above ground of appeal.

3. The grounds raised in Revenue's Appeal read as under:-

1. Whether on the circumstances of the case, the Ld. CIT(A) was right in deleting the addition on account of unexplained investment in house made by the assessee by ignoring the fact that there was actual difference between DVO's report and investment shown by the assessee by Rs. 1,01,11,000/- and that the assessee had produced no evidence that construction of said house was completed in FY subsequent to FY 2004-05 especially when the purchases deed is dated 23.4.2004?

2. Whether on the facts and circumstances of the case, the Ld. CIT(A) was right in ignoring the statement recorded u/s. 132(4) in which the assessee had made disclosure of an additional income on construction of home and had not been declared by her in the returns filed by the assessee.

4. The brief facts of the case are that a search and seizure operation under section 132(1) of the Income Tax Act, 1961 (hereinafter referred as the Act) was conducted on 06.08.2008 at the residential / business premises of the persons associated with the JMD Group. Among others, the residential premises at W-24, Greater Kailash-I, New Delhi residence of Sh. Sunil Bedi, Sh. Karan Bedi and Smt. Pinky Bedi, Directors of M/s JMD Limited was also subject to search and seizure operation. In response to notice u/s. 153A of the Act the assessee filed its return of income on 31.12.2009. Notices under sections 143(2) and 142(1) of the Act alongwith detailed questionnaire were issued which culminated into assessment framed at Rs. 31,02,183/- u/s. 153A(1)(b) of the Act by addition of Rs. 67,50,000/- vide order dated 30.12.2010.

5. Against the assessment order dated 30.12.2010, the assessee appealed before the Ld. CIT(A), Gurgaon, who vide his impugned order dated 29.10.2012 has partly allowed the appeal of the assessee. Aggrieved with the impugned order, the Assessee as well as Revenue are in cross appeals before the Tribunal on some of the issues mentioned in their respective appeals.

6. Ld. Counsel of the assessee has submitted that Ld. CIT(A) has failed to appreciate that the investment made have been fully explained and disallowance of Rs. 29,43,121/- confirmed without appreciating the information provided, hence, he stated that the addition is uncalled for.

6.1 Ld. DR relied upon the orders of the AO with regard to deletion of addition on account of investments. Ld. DR also filed the written submissions in the case and relied upon some of the case laws.

7. We have heard both the parties and perused the records, especially the written submissions. The Assessee and Revenue has contested their respective additions before us. We find that while framing the assessment, the AO took the total value of property of Rs. 1,35,00,000/- and not considered expenditure of Rs. 40 lakhs which was duly accounted for by the assessee and also furnished the bill at the time of assessment. Moreover, the AO did not consider Rs. 50 lacs surrendered by assessee and which have been used for the renovation of the house property i.e. the amount assessee surrendered at the time of search operation. The AO has made the addition of Rs. 67,50,000/-. In appeal Ld. CIT(A) considered all the facts and gave the credit for Rs. 40 lacs on account of Finishing and Furnishing and Rs. 50 lacs on account of amount surrendered, but directed to add the cost of elevators and DG set and air conditioner of Rs. 10,50,033/- + Rs. 4,21,505/-. We note that AO has accepted the cost of DG set and air conditioners, however, there is no reasons to add these cost in the unexplained investment as the assessee has already recorded these transaction in the books of account. On perusing the page book page no. 48 to 51 which are the copies of the invoice, it is clear that assessee produced the bill of these expenditure during the assessment also and AO has not raised any objection in this respect, therefore, in our considered opinion, the Ld. CIT(A) has wrongly directed to add Rs. 14,71,538/- (Rs. 10,50,033+ Rs. 4,21,505) as unexplained investment, because these items were properly accounted for by the assessee in his books of accounts and evidence were submitted and AO has not taken any adverse view in this respect. Therefore, the addition made by the Ld. CIT(A) of Rs. 14,71,538/- (50% share of assessee Rs. 7,35,769/- is wrong and needs to be deleted. We further note that AO has wrongly referred the matter to the DVO, because there

was no increment document was found neither during the search operation nor at any time later on. We further find that the case laws cited by the Ld. DR are not applicable in the present case. Accordingly, we delete the addition in dispute confirmed by the Ld. CIT(A). Accordingly, the ground raised by the assessee is allowed and grounds raised by the Revenue stand rejected.

8. In the result, the Appeal filed by the Assessee stand allowed and Appeal filed by the Revenue stand dismissed.

Order pronounced on 27/10/2017.

Sd/-

(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER

Sd/-

(H.S. SIDHU)
JUDICIAL MEMBER

Date: 27/10/2017

"SRBHATNAGAR"

Copy forwarded to: -

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

TRUE COPY
By Order,

Assistant Registrar,
ITAT, Delhi Benches