

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH: 'C', NEW DELHI

BEFORE SHRI BHAVNESH SAINI, JUDICIAL MEMBER  
AND  
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER

ITA.No.5094/Del/2015  
Assessment Year 2008-2009

Shri Adarsh Kumar, 23, Sudharshan Apartment, I.P. Extension, New Delhi PIN – 110 092. PAN AAAPK6345G	vs.	The DCIT, Central Circle-19, ARA Centre, Jhandewalan Extn., New Delhi.
Appellant		Respondent

Assessee by :	Shri Amit Goyal, C.A.
Revenue by :	Shri A.K. Yadav, Sr. D.R.

Date of Hearing :	16.08.2018
Date of Pronouncement :	04.09.2018

**ORDER**

**PER BHAVNESH SAINI, JM**

This appeal by assessee has been directed against the Order of the Ld. CIT(A)-XXVII, New Delhi, Dated 09.06.2015, for the A.Y. 2008-2009, challenging the validity of

the proceedings under section 153C of the I.T. Act, 1961 and addition of Rs.9,15,000/-.

2. The A.O. noted that search and seizure operation under section 132 of the I.T. Act was conducted by the Investigation Wing of the Department on 22.03.2012 in M/s. Focus Energy Group of cases. Search operation was also carried out under section 132 at the business premises of M/s. Granada Services Pt. Ltd., etc., at A-37, Sector-60, Noida, U.P. In the course of search operation at the above said premises, certain incriminating documents pertaining to the assessee were found and seized. The satisfaction note for invoking Section 153C of the I.T. Act, 1961 was recorded on 26.11.2013 and notice under section 153C was issued to the assessee on the same day. A.O. after consideration explanation of assessee, computed the income of assessee vide assessment order dated 25.03.2014.

3. The assessee challenged the initiation of proceedings under section 153C of the I.T. Act and addition of

Rs.9,15,000/- made by A.O. on account of unexplained salary.

However, appeal of assessee has been dismissed.

4. After considering the rival submissions, we are of the view that the issue is covered in favour of the assessee by the Order of ITAT, Delhi Bench in the case of assessee. Learned Counsel for the Assessee submitted that satisfaction note dated 26.11.2013 under section 153C was recorded for A.Y. 2008-2009 (under appeal), 2009-2010, 2010-2011 and 2011-2012. In A.Ys. 2009-2010, 2010-2011 and 2011-2012 the assessee similarly preferred appeals before the Tribunal in ITA.Nos.5095, 5096 & 5097/Del./2015 which have been decided by the ITAT, Delhi Bench vide Order dated 15.11.2017 reported in 2017 (11) TMI 909 (ITAT-Delhi) in which in paras 4.18 to 6 of the Order it was held as under :

*“4.18. In the background of the aforesaid discussions and respectfully following the precedents, as aforesaid, we quash the proceeding initiated under section 153C of the Act on the ground that satisfaction note was*

*not recorded by the Assessing Officer in the capacity of Assessing Officer of searched person and in any case since there is no satisfaction recorded of any seized documents being "belonging to" the assessee, hence, the other grounds on merits challenging the additions have become academic, which do not require adjudication. As a result, the appeal of the assessee stands allowed.*

5. *Following the consistent view taken in assessment year 2009-10, as aforesaid, the other two Appeals relating to assessment years 2010-11 & 2011 -12 also stand allowed.*

6. *In the result, all the 03 Appeals filed by the Assessee are allowed.”*

5. Copy of the Order is placed on record and provided to the Ld. D.R. The Ld. D.R. did not dispute that identical issue has already been decided by the Tribunal quashing the initiation of proceedings under section 153C of the I.T. Act.

6. Considering the above facts in the light of Order of the Tribunal dated 15.11.2017 (supra), we are of the view that the issue is covered in favour of the assessee by the above Order for subsequent A.Ys. 2009-2010 to 2011-2012. Following the same, we set aside the orders of the authorities below and quash the proceedings initiated under section 153C of the I.T. Act. Resultantly, the addition made by the A.O. stands deleted.

7. In the result, appeal of the Assessee is allowed.

Order pronounced in the open court.

Sd/-  
(PRASHANT MAHARISHI)  
ACCOUNTANT MEMBER

Sd/-  
(BHAVNESH SAINI)  
JUDICIAL MEMBER

Delhi, Dated 04<sup>th</sup> September, 2018

VBP/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT, C-Bench, Delhi
6. Guard File

//By Order//

Asst. Registrar : ITAT : Delhi Benches :  
New Delhi.