

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'A' BENCH,
NEW DELHI

BEFORE SHRI RAJPAL YADAV, JUDICIAL MEMBER, AND
SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER

ITA No. 2592/DEL/2015
[Assessment Year: 2012-13]

M/s Ambawatta Buildwell Pvt. Ltd
K.H. No. 267, 1st Floor
Chattarpur Enclave
Mehrauli, New Delhi

Vs.

The Dy. C.I.T
Central Circle - 1
Faridabad

PAN : AAGCA 0991 B

ITA No. 2551/DEL/2015
[Assessment Year: 2012-13]

The Dy. C.I.T
Central Circle - 1
Faridabad

Vs.

M/s Ambawatta Buildwell Pvt. Ltd
K.H. No. 267, 1st Floor
Chattarpur Enclave
Mehrauli, New Delhi

PAN : AAGCA 0991 B

[Appellant]

[Respondent]

Date of Hearing : 23.08.2018
Date of Pronouncement : 18.09.2018

Assessee by : Shri P.C. Yadav, Adv
Shri N.P. Sahani, Adv

Revenue by : Smt. Aparna Karan, CIT-DR

ORDER**PER N.K. BILLAIYA, AM:-**

These two cross appeals by the assessee and Revenue are preferred against the order of the Commissioner of Income Tax [Appeals] - III, Gurgaon dated 24.02.2015 pertaining to assessment year 2012-13. Both these appeals were heard together and are disposed of by this common order for the sake of convenience and brevity.

2. The representatives of both the sides were heard at length, the case records carefully perused and with the assistance of the Id. Counsel, we have considered the documentary evidences brought on record in the form of Paper Book in light of Rule 18(6) of ITAT Rules. Judicial decisions relied upon were carefully perused.

3. The assessee has raised the following grounds of appeal in Form No. 36:

"1. That on the facts and in the circumstances of the appellant's case the learned Commissioner of Income Tax (Appeals) erred both in fact and in law in confirming disallowance of expense of Rs 53,00,00,000/- claimed as per Debit Note issued by M/s Jasmine Buildmart Private Limited

made by AO without appreciating the fact that the appellant has made payments to them through proper banking channel against the said debit note.

2. That on the facts and in the circumstances of the appellant's case, the learned Commissioner of Income Tax (Appeals) erred both in fact and in law in confirming disallowance of expense of Rs 53,00,00,000/- claimed as per Debit Note issued by M/s Jasmine Buildmart Private Limited made by AO on the basis that the appellant has not asked for cross examination of Shri Amit Katyal.

3. That on the facts and in the circumstances of the appellant's case the learned Commissioner of Income Tax (Appeals) erred both in fact and in law in confirming disallowance of expense of Rs 53,00,00,000/- claimed as per Debit Note issued by M/s Jasmine Buildmart Private Limited made by AO only on the basis that the said debit note was not found at the premises of the appellant."

4. Vide an application filed on 23.08.2018, the assessee raised the following additional grounds of appeal:

"4. On the facts and circumstances of the case, the Assessment Order passed under section 153B(1)(b)/143(3), considering the

impugned year as year of search, is bad in law, as the impugned year is not search year rather falls under proceedings years by virtue of the proviso to section 153C of the Act.

5. It is well settled that an assessee can raise a legal additional ground or even fresh legal plea at any stage of the proceedings. In support the appellant seeks to rely on the judgments of Apex Court in the case of CIT Vs Varas International reported in 284 ITR 80(SC) and NATIONAL THERMAL POWER CO LTD vs CIT reported in 229 ITR 383(SC) Special Bench decision in the case of DHL operators reported in 108 TTJ 152(SB).

6. It is further relevant to mention here that in assessment year 2010-11, which is also impugned before the ITAT and pending adjudication vide ITA No-2591 of 2015, the assessee has raised the issue of satisfaction from the beginning of the proceedings at CIT(A) level. However, the issue of satisfaction, in the impugned year has skipped attention of the assessee as the assessee was under bona fide belief that the impugned assessment year does not fall under the ambit of 153C of the Act. However after the advice of Mr P.C.Yadav advocate the assessee is now raising this categorical ground and prays that the same may be admitted in the interest of justice.

7. Therefore the delay in raising this ground may kindly be condoned. Since it is settled principle of law that unless the malafides writ large the delay should be condoned and justice should be done, as held by Apex Court in the case of **Improvement Trust**

**vs. Ujagar Singh (2010) 6 SSC 786 I (2010) 6 Scale 173
(Supreme Court)."**

5. The additional grounds are admitted since they go to the root of the matter. We now proceed to decide the same.

6. Briefly stated, the facts of the case are that the assessee is a Private Ltd Company, incorporated on 15 12.2006 and is engaged in the business of Real Estate. A search and seizure action was conducted by the department on Krrish Group on 9.11.2011. Vide order dated 23.10.2013, the CIT, Central, Gurgaon transferred the group cases from Assessing Officer, Central Circle - 2, Faridabad to DCIT/ACIT, Central Circle - 1, Faridabad. This fact is also not in dispute as the same finds place in the body of the assessment order itself. The Assessing Officer, in his order mentions that the seized documents in the group were received in the Circle on 29.08.2013. As per the proviso to section 153C of the Income-tax Act, 1961 [hereinafter referred to as 'the Act' for short], reference to the date of initiation of the search u/s 132 of the Act shall be considered as reference to the date of receiving the books of account or documents or assets seized or requisitioned by the Assessing Officer having jurisdiction over such person. Therefore, in the case of the assessee, since the date of

receiving the search documents is 29.08.2013, as per the said proviso, the date of search would be 29.08.2013.

7. The Assessing Officer has proceeded against the assessee on the wrong premise that the assessment year under consideration is the year of search whereas the assessment year should be 2014-15, FY 2013-14. Therefore, the year under consideration is one of the six assessment years to be considered in the cases of search. The issue of notice u/s 153C of the Act becomes mandatory. The assessee has consistently submitted that no notice u/s 153C of the Act has been issued to the assessee.

8. However, having proceeded on the wrong premise that the year under consideration is the year of search, the Assessing Officer has framed the assessment u/s 153B(1)(b) r.w.s 143(3) of the Act whereas the assessment should have been framed u/s 153B(1)(a) r.w.s 143(3) of the Act.

9. When the Bench asked the ld. DR to furnish evidence in respect of issue of notice u/s 153C of the Act, the ld. DR pointed out that no such notice is available on record.

10. On identical set of facts, the two other assesseees of Krrish Group, namely, Shri Ranjan Gupta [ITA No. 503/DEL/2015] & BNB Investment & Properties Ltd [ITA No. 504/DEL/2015] were assessed and the matter travelled upto the co-ordinate bench and the same issues were agitated before the co-ordinate bench. In those appeals also, the following additional grounds were raised:

"That under the facts and circumstances, in the absence of issuance and service of notice U/s. 153 C r/w. Sec. 153A of the I.T.Act, the jurisdiction for framing the impugned Asstt. has been wrongly assumed, hence, the impugned Asstt. is without jurisdiction, illegal and unsustainable in law."

Additional Ground No. 2

"That without prejudice,

As the seized documents in search of a 3rd party have been received by the AO of the assessee on 29.08.2013, therefore, in view of Sec. 153C(1) (first proviso), the search year is A.Y. 2014-2015 and not impugned A.Y. 2012-2013, hence, in case, if impugned Asstt. has been framed U/s. 153 B (1) (b) treating A.Y. 2012-2013 as the search year, the whole Asstt. Proceedings stands vitiated in law and unsustainable because the A.Y. 2012-2013 falls within period of preceding 6 Asstt.

Years as provided in Sec.153A (1)(b), therefore, the Asstt. of A.Y. 2012-2013 was to be framed only U/s. 153C and that too after issuance and service of notice U/s. 153C r/w. Sec. 153A of the I.T.Act which has never been issued as admitted by AO in RT1 reply. "

2. That both the above grounds are pure legal grounds which goes to the root of the matter which can be taken at any stage of proceedings before Hon'ble ITAT.

3. That, further, no new facts are required to be investigated or place on records for adjudicating these grounds which are already available on records.

4. That under above mentioned facts and circumstances and as per the following authorities, these additional grounds deserves to be admitted:-

NATIONAL THERMAL POWER CO. LTD. 229 ITR 383 (SC)

GEDORE TOOLS PVT. LTD., 238 ITR 268 (DEL.)

5. That without prejudice, the issues covered in these additional grounds are covered in G.N. 1 and G. N. 2, as taken initially in Form - 36 also, however, these have been taken specifically only as a matter of abundant precaution and to meet out the situation in case the Hon'ble Court is of the opinion that the same are not covered in Ground Nos. 1 & 2 as initially taken."

11. The relevant findings of the co-ordinate bench read as under:

"8. It is not in dispute that search was conducted on Krrish Group of cases on 09.11.2011. The impounded documents have been received by the A.O. on 29.08.2013. The satisfaction under section 153C have been recorded on 03.10.2013. The A.O. passed the assessment order under section 153B(1)(b) of the I.T. Act, considering the assessment year under appeal i.e., A.Y. 2012-2013 to be the year of search. However, the First Proviso to Section 153C of the I.T. Act provides that the 06 assessment years for which assessments or re-assessments could be made under section 153C of the I.T. Act, would also have to be construed with reference to the date of handing-over of the assets or documents to the A.O. of the assessee. Therefore, the 06 assessment years under section 153C of I.T. Act in the case of assessee would be A.Y. 2008-2009 to 2013-2014. The A.O, therefore, shall have to pass the assessment order under section 153C of the I.T. Act. However, A.O. has not issued any notice under section 153C of the I.T. Act before initiating the proceedings against the assessee which is also admitted by the A.O. in reply to the assessee under RTI Act. The

Amendment in Section 153C of the I.T. Act by the Finance Act, 2017, w.e.f. 01.04.2017 to the effect that block period for the person in respect of whom the search was conducted as well as the "other person" would be the same six assessment year immediately preceding the year of search is prospective in nature. The issue have been dealt in detail by the Hon'ble jurisdictional Delhi High Court in the case of Pr. CIT vs. Sarwar Agency P. Ltd., (supra) and by ITAT, Delhi, B-Bench, in the case of Empire Casting Pvt. Ltd., New Delhi vs. ACIT, C.C.2, New Delhi and Pavitra Realcon Pvt. Ltd., New Delhi vs. ACIT, C.C.32, New Delhi (supra). The A.O, therefore, should have framed the assessment under section 153C of the I.T. Act in the case of the assessee and at the time of initiating the proceeding against the assessee, should have issued notice under section 153C of the I.T. Act which have not been done in this case. The issue of notice under section 153C is mandatory and a condition precedent for taking action against the assessee under section 153C of the I.T. Act. The assessment order, therefore, vitiate, void, illegal and bad in law and cannot be sustained. The contention of the Ld. D.R. have already taken care in the above judgments.

9. Considering the totality of the facts and circumstances of the case, we set aside the orders of the authorities below and quash the same and allow the additional grounds of appeals. Resultantly, all additions stands deleted. Since the assessment order is set aside on legal grounds, therefore, there is no need to decide the addition on merit which has been left with academic discussion only."

12. The appeal of Ranjan Gupta [supra] was decided as under:

"11. In this appeal, the facts and issue is identical. The assessee also moved for admission of the additional grounds as have been considered in the case of M/s. BNB Investment and Properties Ltd. Following the reasons for decision in the case of M/s. BNB Investment and Properties Ltd., (supra), we admit the additional grounds of appeal, set aside the orders of the authorities below and quash the same. Resultantly, delete the entire addition."

13. The appellant being one of the Krrish Group and facts are identical to the facts considered and decided by the co-ordinate bench

[supra], we have no hesitation in following the finding of the co-ordinate bench. We decide accordingly.

14. However, we would not like to rest the case here. For the sake of completeness of the adjudication, we will now consider the merits of the additions.

15. The bone of contention is the disallowance of expenses of Rs. 53 crores. The underlying facts in issue are that the appellant company had bought 12.13 acres of land at village Gawal Pahari, Tehsil Sohna, District Gurgaon, Haryana from various parties. The assessee obtained a license for development of group housing project on the said land with a permissible area of 8,50,000 Sq ft. from the Director, Town planning (DTCP). Thereafter, the assessee entered into MOU with JMD Ltd for development of group housing society, which was subsequently cancelled. The assessee again entered into development agreement with Brahma Homes Private Limited, which was also terminated. Finally, the appellant entered into development agreement with Jasmine Build Mart Private Limited (JBPL) for a consideration of Rs. 110.04 crores on 20.01.2011. A supplementary agreement dated 18.02.2011 was also entered into by virtue of which it was agreed upon

by both the parties that certain expense relating to the project, such as, External Development Charges [EDC], Infrastructure Development Charges [IDC], conversion charges, bank guarantees, duty taxes, fee, cess, leveling of the project land will be borne by the owner, i.e. the appellant company. It was further agreed that after the amounts were incurred by JBPL, then the assessee will reimburse the same. It would be pertinent to mention here that both these documents were found during the course of search and seizure proceedings. Therefore, it can be safely concluded that these documents are not an afterthought and have not been prepared with some ulterior motive.

16. JBPL incurred the following expenses :

	Date	Description	Amount	Remark	EDC + EDC Interest	IDW Charges + IDW Charges Interest	Laveling of Zoned Project Rocky land	Contr uction of Bound ary wall &
1	21-03-2011	EDC and Enhanced EDC	135000000	Paid by Draft No.001856. Date 19.03.2011	135000000			
2	25-03-2011	IDW Charges	30000000	Paid vide DD 019712 dt 25-03- 11 to DTCP		30000000		
3	25-03-2011	1DW Charges	10000000	Paio vide DD 019711 dt 25-03- 11 to DTCP		10000000		
4	29-03-2011	IDW Charges	638000	Paid vide DD 058337 dt 29-03- 11 to DTCP		638000		
5	02-05-2011	IDW Charges	5200000'	Paid vide DD 002057 dt 02-06- 11 to DTCP		5200000		

6	15-06-2011	Expenditure in all Boundary wall	76480719	Construction of Boundary wall - to be Constructed, Estimate Details Submitted Ref JBPL/ABPL/2011-12					76480719
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7	18-06-2011	Levelling of the zoned project rocky land Project Site	182043957	Expenses estimate of levelling, rock cutting development submitted Ref JBPL/ABPL/2011-12			182043957		
8	29-12-2011	EDC	32169000	Outstanding to be paid as per Memo No. ZP-513/JD(BS)/2011/20159 dt 29- 12-11 of DTCP	32169000				
9	29-12-2011	Enhanced EDC	35305000	Outstanding to be paid as per Memo Nd. ZP-513/JD{B\$}/2011/20159 dt 29- 12-11 of DTCP	36305000				
10.	12-5-2012	EDC and Enhanced EDC	33935000	Paid by Draft No.987920.Date 12.05.2012 of Punjab National Bank	33935000				
11	12-5-2012	EDC and Enhanced EDC	38200000	Paid by Draft No.987921.Date 12.05.2012 of Punjab National Bank	38200000				
		Total	579971676		27560900	45838000	18204395		76480719
				EDC	150000000				
				EDC INTEREST	11000000				
	Debit Note issued by Jasmine Buildmart Pvt	Total	530000000		260000000	15000000	180000000		75000000

16. For some reason, the development of land could not be carried out and the appellant company sold the land to JBPL for a consideration of 86.50 crores and the land was transferred to JBPL vide a registered deed, which was executed on 02.02.2012. In the deed itself, it is mentioned that JBPL will issue a debit note of the amount which has been spent by it on behalf of appellant's obligation. Accordingly, JBPL issued a debit note of Rs. 53 crores and the assessee booked liability of 53 crores in its books and subsequently, paid to JBPL through banking channel in the following manner:

17. Details of payments made to JMD by the assessee via banking channel in assessment year 2013-14:

Date	Amount Paid- Syndicate Bank (in Rs.)	Page No. of Paper Book	Asst Year
21.05.2012	50,00,000/-	129	2013-14
28.05.2012	50,00,000/-	130	2013-14
24.07.2012	2,00,00,000/-	131	2013-14
26.07.2012	2,00,00,000/-	131	2013-14
27.07.2012	1,00,00,000/-	131	2013-14
09.08.2012	2,00,00,000/-	132	2013-14
17.08.2012	2,00,00,000/-	132	2013-14
24.08.2012	75,00,000/-	132	2013-14
25.08.2012	75,00,000/-	132	2013-14
18.09.2012	1,20,00,000/-	133	2013-14
19.09.2012	50,00,000/-	133	2013-14
09.10.2012	1,00,00,000/-	134	2013-14
24.01.2013	3,00,00,000/-	138	2013-14
30.03.2013	1,01,09,666/-	138	2013-14
TOTAL	18,21,09,666/-		

18. Details of payments made to JMD by the assessee via banking channel in assessment year 2013-14

Date	Amount Paid- Syndicate Bank (in Rs.)	Page No. of Paper Book	Asst Year
08.04.2013	1,00,00,000/-	139	2014-15
09.04.2013	1,00,00,000/-	139	2014-15
10.04.2013	1,00,00,000/-	139	2014-15
11.04.2013	1,00,00,000/-	139	2014-15
12.04.2013	1,00,00,000/-	139	2014-15
18.04.2013	1,00,00,000/-	140	2014-15
19.04.2013	1,00,00,000/-	140	2014-15
20.04.2013	1,00,00,000/-	140	2014-15
22.04.2013	75,00,000/-	140	2014-15
22.04.2013	75,00,000/-	140	2014-15

25.04.2013	1,50,00,000/-	140	2014-15
26.04.2013	50,00,000/-	140	2014-15
26.04.2013	1,00,00,000/-	140	2014-15
27.04.2013	70,00,000/-	140	2014-15
27.04.2013	80,00,000/-	140	2014-15
29.04.2013	60,00,000/-	140	2014-15
29.04.2013	90,00,000/-	140	2014-15
30.04.2013	1,50,00,000/-	140	2014-15
03.05.2013	1,00,00,000/-	141	2014-15
03.05.2013	1,00,00,000/-	141	2014-15
04.05.2013	30,00,000/-	141	2014-15
04.05.2013	70,00,000/-	141	2014-15
06.05.2013	50,00,000/-	141	2014-15
06.05.2013	50,00,000/-	141	2014-15
07.05.2013	80,00,000/-	141	2014-15
07.05.2013	20,00,000/-	141	2014-15
07.05.2013	40,00,000/-	141	2014-15
07.05.2013	60,00,000/-	141	2014-15
08.05.2013	45,00,000/-	141	2014-15
08.05.2013	55,00,000/-	141	2014-15
09.05.2013	59,00,000/-	141	2014-15
09.05.2013	41,00,000/-	142	2014-15
10.05.2013	85,00,000/-	142	2014-15
10.05.2013	90,00,000/-	142	2014-15
11.05.2013	1,00,00,000/-	142	2014-15
14.05.2013	75,00,000/-	142	2014-15
15.05.2013	1,50,00,000/-	142	2014-15
16.05.2013	1,50,00,000/-	142	2014-15
17.05.2013	1,40,00,000/-	142	2014-15
TOTAL	32,90,00,000/-		

19. From the above charts, it can be seen that Rs. 18.21 crores were paid in assessment year 2013-14 and Rs. 32.90 crores were paid in assessment year 2014-15. It can be seen that all the afore-mentioned payments have been made through banking channel. From the details of expenses incurred by JBPL, exhibited elsewhere, it can be seen that all the payments have been made to Haryana Town and Planning Department. Thus, being statutory payments, their genuineness cannot be doubted.

20. It would not be out of place to refer here that initially a dispute arose between the appellant and JBPL in relation to expenditure and the dispute was settled by Court of Arbitration, which held that this is the liability of the appellant-company, which has been discharged by JBPL.

21. Interestingly, while framing the assessment in the case of JBPL for assessment year 2014-15, the Assessing Officer of JBPL has categorically held that expenses incurred by it has been reimbursed by the appellant company and hence the liability of JBPL seized to exist and the same is taxable u/s 41(1)(a) of the Act. The assessment order of JBPL is exhibited at pages 227 to 245 of the Paper Book Volume 2.

22. The assessment order under consideration is dated 24.02.2014 and that of JBPL was framed on 29.12.2016 which means that it was passed subsequent to assessment order of the appellant company. The Assessing Officer of JBPL, while framing the assessment order in its case, has taken a clue from the arbitration award as is evident from para 2.7 of the assessment order.

23. The above facts clearly show that there was a liability of Rs. 53 crores which was discharged by the appellant company and claimed it as expenditure which it is lawfully entitled for. Both the lower authorities have grossly erred in not appreciating the facts in true perspective while making disallowance. Considering the facts of the case in totality, in our considered opinion, the assessee is entitled for deduction of Rs. 53 crores. We accordingly direct the Assessing Officer to allow the same.

24. In the result, the appeal is allowed on merits of the case also.

25. Coming to the Revenue's appeal in ITA No. 2551/DEL/2015, the only grievance raised by the assessee Revenue is the deletion of addition of Rs. 3.66 crores made by the Assessing Officer on account of

failure by the assessee to prove the identity, credit worthiness and genuineness of the unsecured loans and advances received by it.

26. During the course of assessment proceedings, the A.O noticed that the assessee has taken unsecured loans from the following parties:

Brahm Singh PAN Address - Village Mandi Mehrauli New Delhi	26,00,000.00	26,00,000.00
Advance India Projects Ltd PAN : AACCS 9859 T 232B Okhla Industrial	20,00,000.00	20,00,000.00
Om Prakash Godhra PAN Address - N-99 Greater Kailsh Part I New Delhi.	20,00,000.00	20,00,000.00
Kmsh Reality Ventures P Ltd PAN AAECK5486D Address - 406 (4 th Floor) Eleance Tower - 8. Jasola District Centre New Delhi 110025	1,00,00,000.00	1,00,00,000.00
Swift Infracon P Ltd PAN AARCS7272G Address - 21 Empire Estate. Sultanpur New Delhi 110030	20,00,000.00	20,00,000 00
	Total	Rs.3,66,00,000

27. The Assessing Officer observed that the assessee company has not submitted any documentary evidence which can prove the creditworthiness and concluded by adding Rs. 3.66 crores to the income of the assessee u/s 68 of the Act.

28. The assessee strongly agitated the matter before the Id. CIT(A) and pointed out that in so far as loan liability to the extent of Rs. 2.66 crores is concerned, the same are brought forward balances from the earlier year and, therefore, cannot be added u/s 68 of the Act for the year under consideration. In so far as balance of Rs. 1 crore is concerned, it was explained that the same has been received from Krish Reality Nirman Pvt. Ltd., which is a part of Krrish Group, and subjected to search proceedings. Therefore, there is no question of not establishing the identity of the creditor.

29. After considering the facts and detailed submissions and after verifying the same, the Id. CIT(A) held as under:

"I have considered the submissions of the assessee and the impugned order. The addition has been made by the AO as no documentary evidence was filed by the assessee to prove the identity, genuineness and creditworthiness i.r.o the unsecured loans of Rs.3,66,00,000/-.

In appeal, it has been submitted that name, address and PAN had been furnished and that confirmations i.r.o. Advance India Projects Ltd. (Rs.2 crs) and Swift Infracon Pvt Ltd.(Rs.20 lakhs) were on record (PR- 94 to 104). It was further argued that no initiation was called for as the amount of Rs.2.66 crores could not be considered in the year under consideration having received prior to 1.4.2011, leaving the advance amount of Rs. 1 cr from Krrish Reality Ventures P Ltd. whose identity could not be also disregarded. The advances from Brahm Singh (Rs.26 lakhs) and from Om Prakash Godhra (Rs.20 lakhs) were stated to have been forfeited in AY 2013-14.

On a perusal of the documents furnished in the PB pages 43 to 55, it is seen from the audited copy of account for the assessment year under consideration i.e. AY 2012- 13 containing the balance figures of the previous AY 2011-12, the loans from Advance India, Swift Infracon, Brahm Singh and Om Prakash have been apparently b/f into the relevant financial year. So even the contention about forfeiture of advances received from Brahm Singh and Om Prakash in AY 2013-14 though unsubstantiated is not really material in this present proceedings. In other words as the unsecured loans/advances to the extent of Rs.2.66 crores have been obtained in the previous year prior to FY 2011-12, there is no question of sustaining the addition here. As regards the loan from Krrish Reality Ventures P. Ltd. which is part of the Krrish group subjected to search, no

adverse inference is called for. Thus I am inclined to direct the AO to delete the addition of Rs.3.66 crores. Assessee succeeds here."

30. Before us, the ld. DR strongly relied upon the findings of the Assessing Officer. The ld. counsel for the assessee reiterated what has been stated before the lower authorities.

31. We have heard the rival submissions and have given thoughtful consideration to the orders of the authorities. The undisputed fact is that the loan liability amounting to Rs. 2.66 crores is coming from earlier years and therefore, provisions of section 68 do not apply on the brought forward balances. In so far as unsecured loan of Rs. 1 crore is concerned, the same is received from another group Krrish Reality Ventures Pvt. Ltd which was also subjected search and whose assessment has also been framed by the same Assessing Officer and in its case, transaction has been accepted. Therefore, we do not find any reason to interfere with the findings of the ld. CIT(A).

32. In the result, the appeal of the Revenue in ITA No. 2551/DEL/2015 is dismissed whereas the appeal of the assessee in ITA No. 2592/DEL/2015 is allowed.

The order is pronounced in the open court on 18.09.2018.

Sd/-

**[RAJPAL YADAV]
JUDICIAL MEMBER**

Sd/-

**[N.K. BILLAIYA]
ACCOUNTANT MEMBER**

Dated: 18th September, 2018

VL/

Copy forwarded to:

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

Asst. Registrar,
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr.PS/PS	
Date on which the final order is uploaded on the website of ITAT	
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The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	