

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH: 'E': NEW DELHI)**

**BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER
AND
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

**ITA No:- 2599/Del/2016
(Assessment Year: 2003-04)**

ACIT, Central Circle-14, New Delhi.	Vs.	M/s Worldwide Realtors Pvt. Ltd., Flat No.-4,R.R. Apartment 3-4, Manglapuri, Mehrauli, New Delhi.
PAN No: AAACW1175B		
APPELLANT		RESPONDENT

**ITA No:- 2600/Del/2016
(Assessment Year: 2004-05)**

ACIT, Central Circle-14, New Delhi.	Vs.	M/s Worldwide Realtors Pvt. Ltd., Flat No.-4,R.R. Apartment 3-4, Manglapuri, Mehrauli, New Delhi.
PAN No: AAACW1175B		
APPELLANT		RESPONDENT

ITA No:- 2602/Del/2016
(Assessment Year: 2006-07)

ACIT, Central Circle-14, New Delhi.	Vs.	M/s Worldwide Realtors Pvt. Ltd., Flat No.-4,R.R. Apartment 3-4, Manglapuri, Mehrauli, New Delhi.
PAN No: AAACW1175B		
APPELLANT		RESPONDENT

Revenue by : Smt. Parmita M. Biswas, CIT(DR)
Assessee by : Shri Lalit Mohan, Adv.

Date of Hearing : 03.10.2019

CONSOLIDATED ORDER

PER BENCH

(A) The aforementioned appeals by Revenue are taken up together for the sake of convenience and brevity and these appeals are hereby disposed off through this Consolidated Order; because, in these appeals the tax effect is less than the monetary limit of Rs. 50,00,000/- fixed by the Central Board of Direct Taxes ("CBDT", for short) in its Circular No. 17/2019 dated 08.08.2019. Grounds taken in these appeals of Revenue are as under:

ITA No.-2599/Del/2016

"1. That the CIT (A) has substantially erred on facts and in law in condoning the delay in filing of appeal without considering the illegal conduct of the assessee during the search operations including manhandling the search officers, looting of seized material and registration of criminal case against the promoters of the group and their associates due to such criminal actions.

2. That the CIT (A) has erred on facts and in law in condoning the delay in filing of appeal without considering the non compliant and highly non co-cooperative conduct of the assessee during the original assessment proceedings and the re-

assessment proceedings after the revision order passed by the CIT u/ s 264 of Act.

3. *That the CIT (A) has substantially erred on facts and in law in condoning the delay in filing of appeal without considering the fact that the assessee remained non compliant to the notices issued by the Income Tax Authorities even though an affidavit was filed by the director of the assessee undertaking that no non-compliance shall be made to the notices issued by the Income Tax Authorities.*

4. *That the CIT (A) has substantially erred on facts and in law in condoning the delay in filing of appeal without appreciating and considering the observations of his Ld. Predecessor while dismissing the appeal of the assessee against the penalty imposed under Section 271(l)(b) of the Act.*

5. *That the CIT (A) has substantially erred on facts and in law in condoning the delay in filing of appeal in relying upon the judicial precedents without appreciating that the referred judicial precedents call for the bonafide conduct and no negligence of the assessee which is completely absent in this case.*

6. *That the CIT (A) has substantially erred on facts and in law in condoning the delay in filing of appeal in relying upon the judicial precedents without appreciating that the referred judicial precedents call for the bonafide conduct and no negligence of the assessee which is completely absent in this case.*

7. *That the CIT (A) has erred on facts and in law in admitting the additional evidence filed by the assessee during the course of appellate proceedings without considering the malafide intent, illegal conduct of the assessee during the search operation, non compliant and non cooperative attitude of the assessee before the investigation authorities and during the course of original assessment proceedings and assessment proceedings after the revision order passed by the Ld CIT u/s 264 of the I T Act, 1961.*

8. *That the CIT (A) has substantially erred on facts and in law in admitting the additional evidence filed by the assessee during the course of appellate proceedings without considering the fact that the assessee did not file the requisite details during the course of assessment proceedings even though an affidavit was filed by the director of the assessee, Mr Kundan Lai undertaking that no non compliance shall be made to the notices issued by the Income Tax Authorities.*

9. *That the CIT (A) has substantially erred on facts and in law in admitting the additional evidence filed by the assessee during the course of appellate proceedings without appreciating that the case of the assessee did not fall under any of the four exceptions given under rule 46A of the Income Tax Rule, 1962.*

10. *That the CIT (A) has substantially erred on facts and in law in admitting the additional evidence filed by the assessee during the course of appellate proceedings without considering the fact that the relevant details as filed by the assessee during the course of appellate proceedings were not filed even when multiple opportunities were given to the assessee to file requisite details/documents during the course of assessment proceedings.*

11. *That the Ld. CIT(A) has erred in law and on facts in holding that the AO could not have proceeded to frame assessment u/s 153A in absence of*

incriminating material without appreciating the fact the provisions of the section 153A of the I.T. Act provides for assessment and reassessment of total income of assessee does not confine assessment or reassessment to incriminating documents only.

12. That the Ld. CIT(A) has erred in law and on facts in wrongly appreciating the provision of section 153A of the I.T. Act which clearly provides for assessment and reassessment of total income and does not restrict the scrutiny assessment only to the documents found and seized during search.

13. The CIT(A) has erred on facts and in law in deleting the addition of Rs.23,435/-made by AO on account of administrative & general expenses.

*14. The CIT(A), being a fact finding authority, has erred in facts and in law in allowing the appeal of the assessee without independently verifying the facts of the case, as mandated by the Hon'ble High Court in the case of **CIT Vs. Jansampark Advertising (375ITR 373)**.*

15. (a) The order of the Ld.CIT (Appeals) is erroneous and not tenable in law and on facts.

(b) The appellant craves leave to add, alter or amend any/all of the grounds of appeal before or during the course of the hearing of the appeal."

ITA No.- 2600/Del/2016

"1. That the CIT (A) has substantially erred on facts and in law in condoning the delay in filing of appeal without considering the illegal conduct of the assessee during the search operations including manhandling the search officers, looting of seized material and registration of criminal cases against the promoters of the group and their associates due to such criminal actions.

2. That the CIT (A) has substantially erred on facts and in law in condoning the delay in filing of appeal without considering that the assessee had remained completely non compliant and non cooperative even after the search and had not filed any details before the investigation authorities.

3. That the CIT (A) has erred on facts and in law in condoning the delay in filing of appeal without considering the non compliant and highly non co-cooperative conduct of the assessee during the original assessment proceedings and the assessment proceedings after the revision order passed by the CIT u/s 264 of Act.

4. That the CIT (A) has substantially erred on facts and in law in condoning the delay in filing of appeal without considering the fact that the assessee remained non compliant to the notices issued by the Income Tax Authorities even though an affidavit was filed by the director of the assessee undertaking that no non compliance shall be made to the notices issued by the Income Tax Authorities.

5. That the CIT (A) has substantially erred on facts and in law in condoning the delay in filing of appeal without appreciating and considering the observations of his Ld. Predecessor (specifically under para 8.4 of the order) while dismissing the appeal of the assessee against the penalty imposed under Section 271(l)(b) of the Act

6. That the CIT (A) has substantially erred on facts and in law in condoning the delay in filing of appeal in relying upon the judicial precedents without appreciating that the referred judicial precedents call for the bonafide conduct and no negligence of the assessee which is completely absent in this case.

7. That the CIT (A) has erred on facts and in law in admitting the additional evidence filed by the assessee during the course of appellate proceedings without considering the malafide intent, illegal conduct of the assessee during the search operation, non compliant and non cooperative attitude of the assessee before the investigation authorities and during the course of original assessment proceedings and assessment proceedings after the revision order passed by the Ld CIT u/s 264 of the IT Act,1961.

8. That the CIT (A) has substantially erred on facts and in law in admitting the additional evidence filed by the assessee during the course of appellate proceedings without considering the fact that the assessee did not file the requisite details during the course of assessment proceedings even though an affidavit was filed by the director of the assessee, Mr Kundan Lai undertaking that no non compliance shall be made to the notices issued by the Income Tax Authorities.

9. That the CIT (A) has substantially erred on facts and in law in admitting the additional evidence filed by the assessee during the course of appellate proceedings without appreciating that the case of the assessee did not fall under any of the four exceptions given under rule 46A of the Income Tax Rule, 1962.

10. That the CIT (A) has substantially erred on facts and in law in admitting the additional evidence filed by the assessee during the course of appellate proceedings without considering the fact that the relevant details as filed by the assessee during the course of appellate proceedings were not filed even when multiple opportunities were given to the assessee to file requisite details/documents during the course of assessment proceedings.

11. That the Ld. CIT(A) has erred in law and on facts in holding that the AO could not have proceeded to frame assessment u/s 153A in absence of incriminating material without appreciating the fact the provisions of the section 153A of the I.T. Act provides for assessment and reassessment of total income of assessee does not confine assessment or reassessment to incriminating documents only.

12. That the Ld. CIT(A) has erred in law and on facts in wrongly appreciating the provision of section 153A of the I.T. Act which clearly provides for assessment and reassessment of total income and does not restrict the scrutiny assessment only to the documents found and seized during search.

13. On the facts and circumstances of the case, the Ld.CIT (A) has erred in law in deleting the addition of Rs. 50,00,000/- made by AO on account of unexplained investment.

14. On the facts and circumstances of the case, the Ld.CIT (A) has erred in law in deleting the addition of Rs. 97,469/- made by AO on account of expenditure incurred from unexplained sources.

15. The CIT(A), being a fact finding authority, has erred in facts and in law in allowing the appeal of the assessee without independently verifying the facts of the case, as mandated by the Hon'ble High Court in the case of **CIT Vs. Jansampark Advertising (375ITR 373)**.

16. (a) The order of the Ld.CIT(Appeals) is erroneous and not tenable in law and on facts.

(b) The appellant craves leave to add, alter or amend any/all of the grounds of appeal before or during the course of the hearing of the appeal."

ITA No.- 2602/Del/2016

"1. That the CIT (A) has substantially erred on facts and in law in condoning the delay in filing of appeal without considering the illegal conduct of the assessee during the search operations including manhandling the search officers, looting of seized material and registration of criminal case against the promoters of the group and their associates due to such criminal actions.

2. That the CIT(A) has substantially erred on facts and in law in condoning the delay in filing the appeal without considering that the assessee had remained completely non compliant and non cooperative even after the search and had not filed any details before the investigation authorities.

3. That the CIT (A) has erred on facts and in law in condoning the delay in filing of appeal without considering the non compliant and highly non cooperative conduct of the assessee during the original assessment proceedings and the reassessment proceedings after the revision order passed by the CIT u/s 264 of Act.

4. That the CIT (A) has substantially erred on facts and in law in condoning the delay in filing of appeal without considering the fact that the assessee remained non compliant to the notices issued by the Income Tax Authorities even though an affidavit was filed by the director of the assessee undertaking that no non-compliance shall be made to the notices issued by the Income Tax Authorities.

5. That the CIT (A) has substantially erred on facts and in law in condoning the delay in filing of appeal without appreciating and considering the observations of his Ld. Predecessor while dismissing the appeal of the assessee against the penalty imposed under Section 271(l)(b) of the Act.

6. That the CIT (A) has substantially erred on facts and in law in condoning the delay in filing of appeal in relying upon the judicial precedents without appreciating that the referred judicial precedents call for the bonafide conduct and no negligence of the assessee which is completely absent in this case.

7. That the CIT (A) has erred on facts and in law in admitting the additional evidence filed by the assessee during the course of appellate proceedings without considering the malafide intent, illegal conduct of the assessee during the search operation, non compliant and non cooperative attitude of the assessee before the investigation authorities and during the course of original assessment proceedings and assessment proceedings after the revision order passed by the Ld CIT u/s 264 of the I T Act, 1961.

8. That the CIT (A) has substantially erred on facts and in law in admitting the additional evidence filed by the assessee during the course of appellate proceedings without considering the fact that the assessee did not file

the requisite details during the course of assessment proceedings even though an affidavit was filed by the director of the assessee, Mr Kundan Lai undertaking that no non compliance shall be made to the notices issued by the Income Tax Authorities.

9. *That the CIT (A) has substantially erred on facts and in law in admitting the additional evidence filed by the assessee during the course of appellate proceedings without appreciating that the case of the assessee did not fall under any of the four exceptions given under rule 46A of the Income Tax Rule, 1962.*

10. *That the CIT (A) has substantially erred on facts and in law in admitting the additional evidence filed by the assessee during the course of appellate proceedings without considering the fact that the relevant details as filed by the assessee during the course of appellate proceedings were not filed even when multiple opportunities were given to the assessee to file requisite details/documents during the course of assessment proceedings.*

11. *That the Ld. CIT(A) has erred in law and on facts in holding that the AO could not have proceeded to frame assessment u/s 153A in absence of incriminating material without appreciating the fact the provisions of the section 153A of the I.T. Act provides for assessment and reassessment of total income of assessee does not confine assessment or reassessment to incriminating documents only.*

12. *That the Ld. CIT(A) has erred in law and on facts in wrongly appreciating the provision of section 153A of the I.T. Act which clearly provides for assessment and reassessment of total income and does not restrict the scrutiny assessment only to the documents found and seized during search.*

13. *On the facts and circumstances of the case, he Ld. CIT(A) has erred in law in deleting the addition of Rs. 6,00,000/- made by AO on account of unexplained advance.*

14. *On the facts and circumstances of the case, the Ld. CIT(A) has erred in law in deleting the addition of Rs. 40,00,000/- made by AO on account of unexplained credit entries.*

15. *On the facts and circumstances of the case, the Ld. CIT(A) has erred in law in deleting the addition of Rs. 26,50,000/- made by the AO on account of unexplained cash credit in bank account.*

16. *On the facts and circumstance of the case, the Ld. CIT(A) has erred in law in deleting the addition of Rs. 56,836/- made by the AO on account of expenditure incurred from unexplained sources.*

17 *The CIT(A), being a fact finding authority, has erred in facts and in law in allowing the appeal of the assessee without independently verifying the facts of the case, as mandated by the Hon'ble High Court in the case of **CIT Vs. Jansampark Advertising (375ITR 373)**.*

18. (a) *The order of the Ld.CIT (Appeals) is erroneous and not tenable in law and on facts.*

(b) *The appellant craves leave to add, alter or amend any/ all the grounds of appeal before or during the course of the hearing of the appeal."*

(B) At the outset, Learned Counsel for the Assessee brought to our notice, at the time of hearing, that tax effect in each of these appeals is below Rs. 50,00,000/-. Both sides, [Representatives of Revenue and the Assesseees] were in agreement, at the time of hearing before us, that the tax effect in each of these appeals is below Rs. 50,00,000/-. Vide recent CBDT Circular No. 17/2019 dated 08.08.2019 read with earlier CBDT Circular No. 3 of 2018, dated 11.07.2018, minimum threshold limit of tax effect for filing of appeals by Revenue in Income Tax Appellate Tribunal ("ITAT", for short) has been enhanced to Rs. 50,00,000/-. In a subsequent clarification issued by CBDT vide F.No. 279/Misc/M-93/2018-ITJ, dated 20/08/2019, it has been clarified by CBDT that the aforesaid revised monetary limit is also applicable to all pending appeals in ITAT Having regard to the aforesaid, the Ld. CIT (DR) for Revenue did not press the appeals. The learned Counsel for the Assessee also submitted that the appeals were not maintainable in view of the aforesaid CBDT Circulars dated 08.08.2019 and 11.07.2018; and the aforesaid clarification dated 20.08.2019 issued by CBDT. In view of the foregoing, these appeals are dismissed being not pressed and also being not maintainable having regard to aforesaid CBDT Circular No. 17/2019 dated 08.08.2019 read with aforesaid CBDT Circular No. 3 of 2018 in the light of aforesaid clarification dated 20/08/2019.

(C) Before leaving, we clarify that Revenue will be at liberty to approach Income Tax Appellate Tribunal U/s 254(2) of Income Tax Act, 1961; seeking restoration of one or more of these appeal(s) if it is found that any appeal(s)

of Revenue are/ is not covered by aforesaid CBDT Circulars dated 08.08.2019 and 11.07.2018.

(D) In the result, three appeals by Revenue are dismissed. Our decision was orally pronounced in the Open Court after conclusion of hearing on the date of hearing. Now, this written order is pronounced in Open Court on 04/10/19.

Sd/-

**(AMIT SHUKLA)
JUDICIAL MEMBER**

Sd/-

**(ANADEE NATH MISSHRA)
ACCOUNTANT MEMBER**

Dated: 04/10/19
Pooja/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT 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	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	