

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'D', NEW DELHI**

**BEFORE SH. N. K. BILLAIYA, ACCOUNTANT MEMBER
AND
SH.KULDIP SINGH, JUDICIAL MEMBER
(THROUGH VIDEO CONFERENCING)**

ITA No.4373/DEL/2016
Assessment Year: 2013-14

Land Craft Developers (P) Ltd. C/o Raj Kumar & Associates, CA, L-7A, (LGF), South Extn. Part-2 New Delhi-110049 PAN No.AABCL1391F	Vs	DCIT Central Circle -27 New Delhi
(APPELLANT)		(RESPONDENT)

Appellant by	Sh. Raj Kumar, CA Sh. J. P. Sharma, Advocate
Respondent by	Sh. Vijay Choudhary, Sr. DR.

Date of hearing:	11/01/2021
Date of Pronouncement:	14/01/2021

ORDER

PER N. K. BILLAIYA, AM:

This appeal by the assessee is preferred against the order of the CIT(A)-29, New Delhi dated 28.06.2016 pertaining to A.Y. 2013-14.

2. The assessee has raised the following grounds of appeal :-

1. *That under the facts and circumstances, there is absolutely no legality and justification in making an addition of Rs. 10 lacs u/s.68 for share application money received from M/s. Piirushottam Vinimay (P) Ltd. during A.Y. 2013 - 2014.*

2. *That without prejudice and alternatively, under the facts and circumstances of the case, addition of Rs. 10 lacs U/s. 68 should be set off / adjusted / part and out of open and un - specified surrender of Rs. 40 lacs made U/s. 132 (4) for A.Y. 2013 - 2014 which has been assessed also, in the absence of which, addition to the extent to Rs. 10 lacs stands made twice.*

3. We will first address to the grievance raised vide ground No.2.

4. Briefly stated the facts of the case are that a search and seizure operation was conducted at the premises of the assessee on 23.08.2012. During the search operation for the assessment year 2013-14 which is under consideration, the assessee made surrender of Rs.68257474 as under :-

1. Rs.64257474- Relating to specific seized material
2. Rs. 40 lacs - Unspecified, unrelated and open surrender to cover up any other additions if made on any account

5. Rs. 40 lacs was included in the returned income for the year under consideration while declaring the total of Rs.6606900/-

6. The assessment was completed vide order dated 31.03.2015 framed u/s.143 (3) of the Act by making addition of Rs.10 lacs u/s. 68 of the Act and Rs.398235/- on account of deal with M/s. Pandav Developers.

7. Assessee agitated the matter before the CIT(A).

8. It was vehemently contended that the surrender of Rs.40 lacs should cover the additions made by the AO and accordingly claimed set off all the additions against the surrendered income.

9. The claim of the assessee was allowed by the CIT(A) in so far as addition of Rs.398235/- is concerned. However, the CIT(A) denied the claim of set off addition of Rs.10 lacs made u/s. 68 against the surrendered amount of Rs.40 lacs.

10. Before us the counsel for the assessee reiterated the claim, the DR strongly supported the findings of the CIT(A).

11. We have carefully considered the orders of the authorities below. We have given a thoughtful consideration to the surrender made u/s.132(4) of the Act. We find that surrender of Rs.40 lacs was on account of miscellaneous income to cover up any other

unaccounted/ unrecorded income/ expenditure etc. if any found during search and / or from seized material and from other related information.

12. In our considered opinion the surrender of Rs. 40 lacs was not related to any specific items as the surrender of Rs.6.42 crores was.

13. We are of the considered view that the assessee should be allowed set off of all the additions made in the assessment order by the AO against the surrendered amount of Rs.40 lacs as the same has been honoured by the assessee in his return of income and has paid taxes thereon.

14. We accordingly direct the AO to allow the set off of Rs.10 lacs against the surrendered amount of Rs.40 lacs. Ground No. 2 is accordingly allowed. Ground No.1 becomes infructuous.

15. In the result, the appeal of the assessee is allowed qua ground No.2.

Order pronounced in the open court on 14.01.2021.

Sd/-
(KULDIP SINGH)
JUDICIAL MEMBER

NEHA

Date:-14.01.2021

Sd/-
(N. K. BILLAIYA)
ACCOUNTANT MEMBER

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI

Date of dictation	11.01.2021
Date on which the typed draft is placed before the dictating Member	13.01.2021
Date on which the typed draft is placed before the Other member	14.01.2021
Date on which the approved draft comes to the Sr.PS/PS	14.01.2021
Date on which the fair order is placed before the Dictating Member for Pronouncement	14.01.2021
Date on which the fair order comes back to the Sr. PS/ PS	14.01.2021
Date on which the final order is uploaded on the website of ITAT	14.01.2021
Date on which the file goes to the Bench Clerk	14.01.2021
Date on which file goes to the Head Clerk.	
The date on which file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	