

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "C": NEW DELHI**

**BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER
AND
SHRI B.R.R. KUMAR, ACCOUNTANT MEMBER**

ITA Nos.:-3960, 3961, 3963/Del/2017
Assessment Years: 2010-11, 2011-12, 2013-14

ACIT, Central Circle-13, New Delhi 110 055	Vs.	Shri Jaidev Prasad Minda, A-9, Phase-1, Ashok Vihar, New Delhi PAN AATPM3790Q
(Appellant)		(Respondent)

Department by:	Ms. Sunita Singh, CIT(DR)
Assessee by :	Shri Salil Aggarwal, Advocate Shri Shailesh Gupta, Advocate
Date of Hearing	14/01/2021
Date of pronouncement	22/03/2021

ORDER

PER AMIT SHUKLA, J.M.

The aforesaid appeals have been filed by the revenue against separate impugned order of even date, 31st March 2017, passed by Ld. CIT (Appeals) – 26, New Delhi for the quantum of assessment passed u/s143(3)/153(A) for the assessment years 2010-11, 2011-12 and 2013-14. Since, in all the appeals identical issues are involved arising out of similar set of facts and findings, therefore, same were heard together and are being disposed of by way of this consolidated order. In all the three years, the assessee has challenged the addition u/s 68 of the I.T. Act made on the basis of receipts in the ledgerised cash

sheets as per annexure of seized material found during the course of search. Following additions have been made in these three years:-

<u>Asstt. year 2010-11</u>	<u>Asstt. year 2011-12</u>	<u>Asstt. year 2013-14</u>
Rs. 1,91,22,400/-	Rs. 1,74,77,400/-	Rs. 2,46,85,631/-

2. Since the grounds of appeal are identical, therefore, for the sake of convenience, the grounds of appeal filed by the revenue for the Asstt. year 2013-14 are reproduced as under :-

“1 The Ld. CIT (A) has erred on facts and in law in deleting the addition of Rs. 2, 46, 85, 631/- u/s 68 of the I. T. Act, 1961 as the receipts in the ledgerised cash sheets inventorized under annexure A-2 by Party R-2 admittedly representing undisclosed receipts.

2 The Ld. CIT (A) has erred on facts and in law in observing that no separate income is recorded with ledger vis-a-vis Summary sheets whereas the AO has notices a difference of Rs. 2,46,85,631/- based upon such documents.

3 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.”

2. As a lead case we are taking the appeal for the assessment year 2013-14 and our findings given therein will apply mutatis mutandis in the appeals for the assessment years 2010-11 and 2011-12. The facts in brief, are that the search and seizure operation u/s 132 was carried out in the case of the Minda group of cases on 20.9.2013 and accordingly, notice u/s 153A was issued on 02.05.2014. Ld. AO noted that during the course of search, documents were seized and on perusal of seized material especially annexure **AA-6, Party 0-2**

contains receipts out of sale of scrap of Rs. 1,19,24,500/- during the current financial year. In response to the query raised by the AO, the assessee submitted that the assessee group i.e., J P Minda group of companies vide its disclosure letter dated 28.12.2013 has taken into account these receipts of Rs.1,19,24,500/- as part of its disclosure as additional income in the respective hands. Assessee had further submitted that he has surrendered Rs. 1,19,24,500/- in the hands of his elder son Sh. Ashwani Kumar Minda, as the cash book giving the details in respect of income has been found from the residence of Shri Ashwani Minda during the course of search and as such the said income have been surrendered in the hands of Shri Ashwani Minda Assessee has also attached computation of income of his son Sh. Ashwani Kumar Minda showing total surrender of Rs. 1,19,24,500/- in the current financial year. Thus on this, no adverse inference was drawn and the similar income was accepted in the hands of the elder son of the assessee, Shri Ashwini Kumar Minda.

3. Thereafter, Assessing Officer noted that the seized material **Annexure A-5 , Party R-2** contains documents which shows receipt of Rs. 3,66,10,131/- and the details were incorporated by him in the following manner :-

	JPM Ji on a/c	Loan (JISL)	Modern Scrap	Total
2007-10	1,51,30,160*	50,00,000		2,01,30,160
2010-11	85,00,000	93,00,000		1,78,00,000
2011-12	89,79,720	54,00,000		1,43,79,720
2012-13	2,46,85,631	-	1,19,24,500	3,66,10,131
	5,72,95,511	1,97,00,000	1,19,24,500	8,89,20,011

He further noted that the documents seized during the course of search, i.e., **annexure A-2, Party R-2** which was cash book print out,

and came to an inference that there remain an unexplained amount of Rs. 2,46,85,631/-. The same were added by him after observing and holding as under :-

“During the financial year under consideration the assessee received Rs.3,6610,131/- in cash out of which Rs.1,19,24,500/- have been surrendered either in the hand of the assessee or in the hand of his elder son Sh. Ashwani Minda. If the assessee's this submission of surrendered income is considered, there remains an unexplained amount of Rs.2,46,85,631/-. On being asked about it, it has been submitted that this amount is part of the out of book transactions entered into by the assessee and there is a multiplicity/rotation of cash and the same was requested for consideration. I have considered the submission made by the assessee as well as the facts of the case and in my considered opinion the assessee has not been able to bring on record any cogent explanation of the cash receipts of Rs.2,46,85,631/- which remains unexplained and accordingly the same are added to the income of the assessee u/s 68 of the IT Act being undisclosed receipts from undisclosed sources.

(Addition of Rs. 2,46,85,631/-)”

4. Ld. CIT(A) after considering the contention of the assessee as well as finding of the AO and the perusal of the entire seized material referred to by the AO observed that the transaction of cash has been recorded and the following documents which are part of the seizure :-

1. A-5 of R-2 which is claimed to be summary of receipts and payments.
2. A-2 of R-2 which is claimed to be ledger account of different transactions which have been summarised in A-5/R-2

3. AA-6/0-2 which is claimed to be cash book of different transactions not recorded in regular books of accounts as summarised in A-5/R-2

5. The assessee's contention before the AO as well as CIT (A) has been that all receipts recorded in the cash book/ledger as per annexure A-2 of R-2 and AA-6 of 0-2 had been consequently summarised in the form of the sheet at A-5 of R-2 and all the entries recorded in the impugned cash book/ledger accounts were not in the nature of income. It was claimed that the specific entries of income nature had been marked as scrap sale/miscellaneous receipts and these had been disclosed in the return filed u/s 153A amounting to Rs. 1,19,24,500/- and the same had been assessed accordingly by the AO. It was claimed that the AO had assessed the quantum of receipts as per the summary sheet without taking into account the detailed accounts maintained by the assessee in the form of cash book/ledger which had also been seized during the course of search operation. It was claimed that the all the transactions duly supported by various entries in the cash book/ledger have been submitted before the AO and the same had been rejected without bringing on record any reasons to disagree with the same.

6. Ld. CIT (A) after examining the annexure A-2 of R-2 comprising of 23 pages and annexure AA-6 of 0-2 comprising of 51 pages, noted that the generation of unaccounted income represented by scrap sale/miscellaneous receipts have been duly entered into cash book maintained and marked as AA-6 of 0-2 and the same entries have been ledgerized in A-2 of R-2. Further, the summary of the entire receipts and payments over a period of time has been marked as A-5 of R-2. Thus, annexure A-5 of R-2 records all the transactions of

receipt of unaccounted income and expenditure which are also recorded in A-2 of R-2 and AA-6 of 0-2, which are nothing but sub parts of A-5 of R-2. He has also examined the impact of the entries in the cash book and ledger of the summary sheets and came to the conclusion that the assessee had recorded cash transaction in the cash book at AA-6 of 0-2 and in the ledger account of A-2 of R-2 which are accounted in the summary sheet at A-5 of R-2. Thereafter, he has given certain instances and after analysing the same has deleted the additions after observing as under:-

“For instance the summary sheet at annexure A-5 of R-2 records an amount under the head receipts (J P Minda on account) to the tune of Rs. 2,46,85,631/- for the financial year 2012-13. This amount has been picked up from annexure A2/R2 which is a ledger account of J P Minda loan account and the said amount represents total on the credit side during the financial year 2012-13. Further the perusal of the cash book seized at AA-6 of R-2 shows that the following entries from the ledger account of J P Minda group are also recorded in the cash book as follows:

Ledger(A-2/R-2)	Amount (Rs.)
04.12.2012	49,00,000
04.12.2012	13,00,000
24.12.2012	5,00,000
21.01.2013	9,41,521

Cash Book(AA-6/R-2)	Amount (Rs.)
04.12.2012	49,00,000
04.12.2012	13,00,000
24.12.2012	5,00,000
21.01.2013	9,41,521

9. The perusal of the above detailed comparison shows that the amounts recorded in the cash book and ledger are duly represented in the summary sheet and therefore no independent and additional income could be taxable in respect of the entries in cash book and ledger as their impact has been recorded in the summary sheet and disclosed for tax purposes in return filed u/s 15 3A accordingly. The chart incorporating the record of entries in the cash book and ledger is as under:

	JPM Ji on a/c	Loan (JISL)	Modern Scrap	Total
2007-10	1,51,30,160 (at Page no 10 of A-2/R-2 marked as point no viii)	50,00,000 (at page no 6 A-2/R-2 marked as point no vii)		2,01,30,160
2010-11	85,00,000 (at Page no 18 of A-2/R-2 marked as point no vi)	93,00,000 (at page no 19 of A-2/R-2 marked as point no iv)		1,78,00,000
2011-12	89,79,720(Amount mentioned at page no 15 of Rs 1,16,19,120 minus amount mentioned at page no 18 of Rs 26,39,400 of A-2/R-2 and marked as point no iii) as point no iii)	54,00,000 (at page no 19 of A-2/R-2 marked as point no v)		1,43,79,720
2012-13	2,46,85,631 At page no 21 of A-2/R-2 marked as point no i)	-	1,19,24,500 (Amount mentioned at Page no 23 of A-2/R-2 Rs 44,24,500	3,66,10,131

			plus amount mentioned at page no 15 of AA-6 Rs 75,00,000 and marked as point no ii)	
	5,72,95,511	1,97,00,000	1,19,24,500	8,89,20,011

8. We have heard the rival submissions and perused the relevant findings during the impugned orders as well as the material placed before us during the course of hearing. Admittedly, during the course of search following set of documents were found and seized which have also been placed in the paper book and are being analysed as under :-

(i) Annexure AA-6, Party O-2, Page Nos. 12 to 51 (at pages 28 to 68 of the paper book)

- This document was nothing but a comprehensive/ master cash book, which recorded inflows of cash right from AY 01.04.2007 to 31.08.2013. This document also reflected withdrawals and deposits of cash out of the said inflows during the aforesaid period.
- That with regards to all the cash inflows as appearing in the said master cash book surrender was made by assessee and his elder son Sh. Ashwani Kumar Minda in their individual capacities, which was duly accepted by department. Breakup of the surrender so made, year wise is as under:

<i>Assessment year</i>	<i>Ashwani Minda</i>	<i>JP Minda</i> <i>(Assessee)</i>
<i>2008-09</i>	<i>20,00,000</i>	<i>1,23,13,660</i>
<i>2009-10</i>	<i>1,23,72,000</i>	
<i>2011-12</i>	<i>3,22,600</i>	
<i>2012-13</i>	<i>14,97,000</i>	<i>30,09,000</i>
<i>2013-14</i>	<i>1,19,24,500</i>	
Total Surrender:	2,81,16,100	1,53,22,660

- Thus, total surrender of Rs. 4,34,38,760/- was made by assessee and his son with respect to inflows appearing in the master cash book, which surrender was also accepted by the department for the aforesaid assessment years. That even for impugned assessment year i.e. AY 2013-14, a surrender of Rs. 1, 19, 24, 500/- was being made by Sh. Ashwani Kumar Minda, which has been duly noted and accepted by learned AO in the order of assessment

(ii) Annexure A - 2, Party R - 2, Page Nos. 1 to 23 (at pages 5 to 27 of the paper book)

- This document contained print out of some ledger accounts with respect to transactions as reflected in master cash book. This document basically reflected as to how the cash was withdrawn and deposited out of the inflows of money by the assessee. Ergo, this document was nothing but a party wise record of transactions mentioned in the master cash book. For instance, if we compare page nos. 61 to 62 of the paper book with page nos. 6 and 7 of the paper book, it would become amply clear that

entries in the master cash book were only separately recorded in separate ledger accounts, and the ledger account merely recorded the withdrawals and deposits of cash out of inflows and did not contain any extra income or inflow. The aforesaid has been explained in detail by the Ld. Counsel in the form of tabular chart as drawn out of the seized documents, as below:

Annexure AA - 6, Party O - 2, Page Nos. 12 to 51 (at pages 28 to 68 of the paper book) i.e. master cash book	Annexure A - 2, Party R - 2, Page Nos. 1 to 23 (at pages 5 to 27 of the paper book) i.e. ledger accounts.	Analysis of the seized documents
Page no. 51 of the said seized document has been placed at page no. 29 of the paper book, which contains following entries:	Page no. 12 of the said seized document has been placed at page no. 17 of the paper book, which contains following entries:	A comparative study of Annexure AA - 6 and Annexure A - 2, makes it amply clear that both documents record same transactions. As Annexure AA - 6, is a master cash book, which contains various inflows and outflows in cash, whereas, Annexure A - 2, contains ledger wise entries of transactions as appearing in the cash book. Thus, no separate inference can be drawn out of Annexure A - 2, as it contains same entries and transactions as recorded in the master cash book. The assessee - respondent had also furnished a summary of said master cash book and ledger
28.02.2008 Rs. 10,00,000/- Rs. 8,40,000/-	28.02.2008 Rs. 10,00,000/- Rs. 8,40,000/-	
14.03.2008 Rs. 73,13,660/- Rs. 3,86,600/-	14.03.2008 Rs. 73,13,660/- Rs. 3,86,600/-	
Entries pertaining to impugned assessment year are at Page no. 18 of the said seized document has been placed at page no. 61 of the paper book, which contains following entries:	Entries pertaining to the impugned assessment year are at Page no. 22 of the said seized document has been placed at page no. 6 of the paper book, which contains following entries	
07.04.2012 Rs. 31,95,000/-	07.04.2012 Rs. 31,95,000/-	

Rs. 18,00,000/-	Rs. 18,00,000/-	account before learned AO to depict entry wise comparison of the transactions which showed that both set of seized documents contain same entries (kindly see pages 71 to 77 of the paper book).
12.04.2012 Rs. 46,00,000/- Rs. 2,00,000/-	12.04.2012 Rs. 46,00,000/- Rs. 2,00,000/-	
30.04.2012 (Pg 61 of PB) Rs. 5,00,000/- Rs. 9,41,600/- Rs. 2,00,000/-	30.04.2012 (Pg 6 of PB) Rs. 5,00,000/- Rs. 9,41,600/- Rs. 2,00,000/-	That the basis of addition in the impugned case Annexure A-2, Party R-2, Page Nos. 1 to 23. Now, it can be seen that the basis of addition is a sum of Rs. 2, 46, 85, 631/- as appearing on the said document, which is at page 4 of the paper book and also at page 3 of the assessment order. If the same is compared with other set of seized documents, then it would become amply clear that the said figure is summary of ledger account of assessee for the impugned Assessment year, as mentioned at page 6 and 7 of the paper book, which is nothing but recording of transactions i.e. withdrawals and deposits out of inflows appearing in master cash book, which is at pages 28 to 68 of the paper book, more specifically pages 61 to 68 for the impugned assessment year (for which surrender has already been made and also accepted by department.
07.05.2012 (Pg 61 of PB) Rs. 3,00,000/-	07.05.2012 (Pg 61 of PB) Rs. 3,00,000/ -	
18.05.2012 Rs. 1,00,000/- 22.05.2012 Rs. 15,00,000/-	18.05.2012 Rs. 1,00,000/- 22.05.2012 Rs. 15,00,000/-	

- Thus, the entire seized master cash book at pages 28 to 68 of the paper book can be compared with the ledger account of JPMJI so culled out from the seized ledger accounts at pages 71 to 77 of the paper book, which will amply make it clear that the said ledger is nothing but daily record of withdrawals and deposits by JPMJI in and out of cash book and never the balance in master cash book was negative. Thus, master cash book seized was the source and base of the ledger account JPMJI, which in turn was the basis of third seized document i.e. Summary Sheet Annexure A - 5, Party R - 2, Page No. 43.
 - There were no separate inflows or outflows beyond the master cash book appearing in the aforesaid document and the same fact was appreciated by learned AO as well, as no separate addition was made with respect to the aforesaid seized document.
- (i) Annexure A - 5, Party R - 2, Page No. 43 (at page 3 to 4 of the paper book)**
- This document is nothing but summary of transactions so mentioned in the Annexure A - 2, Party R - 2, Page Nos. 1 to 23.
 - As it can be seen that the basis of addition is a sum of Rs. 2, 46, 85, 631/- as appearing on the said document, which is at page 4 of the paper book and also at page 3 of the assessment order. If the same is compared with other set of seized documents, then it would become amply clear that the said figure is summary of ledger account of assessee for the impugned assessment year, as mentioned at page 6 and 7 of the paper book, which is nothing but recording of transactions i.e.

withdrawals and deposits out of inflows appearing in master cash book, which is at pages 28 to 68 of the paper book, more specifically pages 61 to 68 for the impugned assessment year (for which surrender has already been made and also accepted by department).

- Thus, the said seized document was just a summary of transactions, which was covered by the figures appearing in the ledger account and in turn by the master cash book, for which surrender was already been made and accepted by department, as well. Thus, the addition so made by learned AO on the basis of this document was on misreading of all the aforesaid seized documents.

9. As pointed out by the Ld. Counsel from the documents on record as discussed herein above and on perusal of the entire gamut of seized material, we find that there is a master cash book which is marked AA-6 of R-2 which is based on all other documents seized. Based on the said master cash book, surrender was made with regard to all the enclosed set of books which was accepted by the department. In that case we do not find any reason or justification to make separate addition with regard to the same account incorporated in the ledger account and the entries of ledger account arising out of the master cash book. This precise explanation was also given before the Assessing Officer which has not been adverted to by the Ld. AO.

10. Ld. CIT(A) has given a categorical finding as incorporated above after examining each and every entry appearing in the said seized documents which has also been shown to us during the course of hearing from the said seized documents. On independent examination of the documents, we agree with the findings of the Ld. CIT (A) that the

addition made by the AO has led to double addition and the same nature of transaction have been recorded in the master cash book and ledger account of summary sheet which is nothing but summary of all the transactions recorded in other seized documents. No material has been brought on record to controvert the findings of the Ld. CIT (A) and, therefore, the order of the Ld. CIT(A) deleting the addition has confirmed and the grounds raised by the revenue are dismissed.

11. Since we have already held that exactly same issue is involved in other two years and the same set of facts and findings are permeating therein also apparently our findings will apply in the other two year also.

12. In the result, all the three appeals of the revenue are dismissed.

Order pronounced in the Open Court on 22nd March, 2021.

sd/-

(B.R.R. KUMAR)
ACCOUNTANT MEMBER

Dated: 22/03 /2021

Veena

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

sd/-

(AMIT SHUKLA)
JUDICIAL MEMBER

ASSISTANT REGISTRAR
ITAT, New Delhi