

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'C' BENCH,  
NEW DELHI (THROUGH VIDEO CONFERENCING)

BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER, AND  
MS. SUCHITRA KAMBLE, JUDICIAL MEMBER

ITA No. 5790/DEL/2016 [A.Y 2008-09]

ITA No. 5791/DEL/2016 [A.Y 2009-10]

ITA No. 5792/DEL/2016 [A.Y 2010-11]

The I.T.O  
Ward - 10(2)  
New Delhi

Vs.

M/s Glitz Builders Pvt Ltd.  
M-11, Middle Circle  
Connaught Place  
New Delhi -

PAN : AABCG 9311 N

[Appellant]

[Respondent]

Date of Hearing : 06.09.2021

Date of Pronouncement : 06.09.2021

Assessee by : Shri Ajay Bhagwani, C.A.

Revenue by : Ms. Sunita Singh, CIT-DR

**ORDER**

PER N.K. BILLAIYA, ACCOUNTANT MEMBER,

These three separate appeals by the Revenue are preferred against a consolidated order of the Commissioner of Income Tax [Appeals] - 30, New Delhi dated 22.07.2016.

2. Since common issues are involved in the captioned appeals they were heard together and are disposed of by this common order for the sake of convenience and brevity.

3. The common grievance in all the captioned appeals relates to the finding of the ld. CIT(A) who held that no addition can be made in an assessment completed u/s 153A of the Income tax Act, 1961 [hereinafter referred to as 'The Act' for short] if no incriminating documents were found.

4. Briefly stated, the facts of the case are that search and seizure operation was carried out on the various premises of M/s BPTP Ltd and its group concerns. The assessee company is associated with BPTP group of cases. Post search, notice u/s 153A of the Act was issued and served upon the assessee asking it to file its return of income within 15 days of service of notice.

5. The assessee responded to the notice and filed its return of income u/s 153A of the Act.

6. Income was assessed after making addition on account of interest on post dated cheques amounting to Rs. 4,08,48,675 in A.Y 2008-09, Rs. 3,09,17,775/- in A.Y 2009-10 and Rs. 2,04,63,750/- in A.Y 2010-11.

7. Additions were assailed before the Id. CIT(A) wherein it was strongly contended that the additions are devoid of any incriminating material found during the course of search and seizure operation. Strong reliance was placed on the decision of the Hon'ble Jurisdictional High Court of Delhi in the case of Kabul Chawla 61 Taxmann.com 412 and in the case of Ms. Lata Jain ITA No. 274 to 276/2016.

8. The Id. CIT(A) after considering the facts and submissions, found that the addition made by the Assessing Officer is based on incriminating material found in earlier search action carried out u/s 132 of the Act on 15.11.2007 in other group companies and there was no incriminating document found and seized in search action carried out on 07.12.2010 belonging to the assessee. Following the ratio laid down by the Hon'ble Jurisdictional High Court in the case of Kabul Chawla [supra], the Id. CIT(A) held that no addition can be made in an assessment completed u/s 153A of the Act if no incriminating document is found in the search action.

9. Before us, the ld. DR supported the findings of the Assessing Officer but could not point out any error in the findings of the ld. CIT(A).

10. Per contra, the ld. counsel for the assessee supported the findings of the ld. CIT(A).

11. We have carefully considered the orders of the authorities below. It is true that during the course of search operation conducted on 15.11.2007, some incriminating documents were found. It is equally true that no incriminating document has been found and seized in the search action carried out on 07.12.2010 and there is no dispute that the assessment under consideration is relating to the search action u/s 132 of the Act carried out on 07.12.2010. These being the facts of the case, the ratio laid down by the Hon'ble High Court of Delhi in the case of Kabul Chawla [supra] squarely applies on the facts of the case in hand and, therefore, the findings of the ld. CIT(A) cannot be faulted with.

13. In the result, all the three captioned appeals of the Revenue in ITA Nos. 5790, 5791 and 5792/DEL/2016 are dismissed.

The order is pronounced in the open court on 06.09.2021 in the presence of both the rival representatives.

Sd/-

Sd/-

**[SUCHITRA KAMBLE]  
JUDICIAL MEMBER**

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

Dated: 06<sup>th</sup> September, 2021

VL/

Copy forwarded to:

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

Asst. Registrar,  
ITAT, New Delhi

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