

**INCOME TAX APPELLATE TRIBUNAL**  
**[ DELHI BENCH "B": NEW DELHI ]**

**BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER**  
**AND**  
**SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER**  
**(Through Video Conferencing)**

ITA. No. 2737/Del/2018  
(Assessment Year: 2009-10)

Three C Universal Developers Pvt. Ltd., C-23, Greater Kailash Enclave, Part - I, New Delhi - 110 048. <b>PAN: AACCT6175E</b>	Vs.	ACIT, Circle : 6, New Delhi.
(Appellant)		(Respondent)

Assessee by :	N o n e;
Revenue by:	Shri Rajesh Kumar, Sr. D.R.;
Date of Hearing :	16/08/2021
Date of pronouncement :	13/09/2021

**ORDER**

**PER PRASHANT MAHARISHI, A. M.**

1. This appeal is filed by the assessee against the order of the ld. Commissioner of Income Tax (Appeals)-24, New Delhi, dated 31.01.2018 for assessment year 2009-10 wherein following grounds of appeal are raised:-

*" 1. That the Ld. CIT (A) has erred on facts and under the law in dismissing the appeal of the Appellant by simply holding that the issues as agitated do not emanate from the impugned order as passed under section 154/153A/143(3) of I.T. Act.*

*2. That the Ld. CIT (A) has erred on facts and under the law in not giving his findings on the merits of each issue as agitated before him.*

*3. That the following disallowances as made by the AO ought to have been deleted by the Ld. CIT (A) and at any rate, the disallowances as made are very excessive:*

- (i) Rs.39,67,281/- on account of prior period expenses*
- (ii) Rs. 1,36,092/- out of interest expenditure.*
- (iii) Rs.3,782/- under section 14A of I.T. Act read with Rule 8D.*

*4. That the levy of interest under section 234A, 234B, 234C and 234D is illegal and any rate, without prejudice, interest as levied is very excessive.*

*5. That the appellant reserves its right to add, amend / modify the grounds of appeal. “*

2. Brief facts of the case shows that assessee filed return of income on 3.09.2015 declaring income of Rs.6,13,43,030/-. Assessment under section 153A read with Section 143(3) of the Income Tax Act, 1961 (the Act) on 31.03.2016 at income of Rs.6,13,43,030/-. The Assessing Officer issued notice under Section 154 of the Act on 16.05.2016 stating that there is a mistake apparent from the record, which needs to be rectified. The nature of mistake stated to be crept into the order of assessment under Section 153A of the Act was that earlier assessment made under Section 143(3) of the Act on 30.12.2011, an addition of Rs.41,07,155/- was made by the Assessing Officer whereas while framing the assessment under Section 153A the above addition was not made due to over-sight. Therefore, the Assessing Officer says that this is a mistake which needs to be rectified. In response to the notice no reply was sent by the assessee and, therefore, the AO rectified the above mistake by making a disallowance of Rs.41,07,155/- in the original assessment order passed under Section 143(3) of the Act which was not made while making an addition under Section 153A and, therefore, the total income of the assessee was determined at Rs.6,54,50,185/- against the original assessed income under Section 153A of Rs.6,13,43,030/-. Such order was passed on 21.06.2016.
3. The assessee preferred an appeal before the Id. CIT (Appeals), which dismissed the appeal of the assessee.
4. Assessee aggrieved has preferred this appeal. However, despite notice none appeared and, therefore, the issue is decided on the merits of the case.
5. The Id. DR submitted that the ground raised in this appeal are not emanating from the assessment order itself. The order passed under Section 153A of the Act itself and, therefore, the Id. CIT (Appeals) has correctly decided the issue.
6. We have carefully considered the rival contentions and perused the orders of the lower authorities. In the present case, search and seizure operation

under Section 132 of the Act was carried out on Three C Group on 29.10.2013. Assessee was also covered in search. Therefore, notice under Section 153A of the Act was issued. Assessee filed return declaring income of Rs.6,13,43,030/- on 3.09.2015. The Assessing Officer accepted returned income of the assessee vide order dated 31.03.2016 passed under Section 153A read with Section 143(3) of the Act. Later on it was found that assessment in this case was completed under Section 143(3) of the Act on 30<sup>th</sup> December, 2012 earlier and, therefore, the total income under Section 153A of the Act should have been assessed at the originally assessed income under Section 143(3) of the Act. Therefore, there was a mistake apparent from the record clearly showing that the income of the assessee should have been assessed at the assessed income under Section 143(3) of the Act. Admittedly, there is no addition made to the total income of the assessee in framing assessment order under Section 153A of the Act. Before the Id. CIT (Appeals) the issues were agitated with respect to several additions which were not part of the assessment made under Section 153A of the Act in order dated 31.03.2016, but were emanating from the assessment order under Section 143(3) of the Act on 30<sup>th</sup> December, 2011. Therefore, we hold that there was a mistake in taking the correct assessed income, which is apparent from record, has been correctly rectified by the Assessing Officer. The Id. CIT (Appeals) also held the same. The Id. CIT (Appeals) has also correctly held that assessee has already filed appeal before the original 143(3) order dated 30<sup>th</sup> December, 2011. The appeal order has also been passed by the CIT (Appeals)-9, New Delhi, on 17.05.2016. The assessee itself requested the Id. CIT (Appeals) in this appeal to withdraw the appeal. Therefore, the CIT (Appeals) recording all these facts has dismissed the appeal of the assessee. We do not find any reason to up-set the findings of the lower authorities. Accordingly, appeal filed by the assessee is dismissed.

Order pronounced in the open court on : 13/09/2021.

**Sd/-**  
**( AMIT SHUKLA )**  
**JUDICIAL MEMBER**

**Sd/-**  
**(PRASHANT MAHARISHI)**  
**ACCOUNTANT MEMBER**

Dated : 13/09/2021.

\*MEHTA\*

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

ASSISTANT REGISTRAR  
ITAT, New Delhi

Date of dictation	13.09.2021
Date on which the typed draft is placed before the dictating member	13.09.2021
Date on which the typed draft is placed before the other member	13.09.2021
Date on which the approved draft comes to the Sr. PS/ PS	13.09.2021
Date on which the fair order is placed before the dictating member for pronouncement	13.09.2021
Date on which the fair order comes back to the Sr. PS/ PS	13.09.2021
Date on which the final order is uploaded on the website of ITAT	13.09.2021
date on which the file goes to the Bench Clerk	13.09.2021
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	