

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'F' NEW DELHI**

**BEFORE SHRI ANIL CHATURVEDI, ACCOUNTANT MEMBER  
AND  
SHRI K. NARASIMHA CHARY, JUDICIAL MEMBER**

**ITA No. 830/Del/2019  
Assessment Year: 2011-12**

ACIT, Circle – 19,  
New Delhi.

vs.

Pawan Kansal,  
A-7, Antriksh Apartment,  
Plot No. D-3, Sector-14,  
New Delhi.

**PAN : AHEPK0574C**  
(Appellant)

(Respondent)

Appellant by : Sh. Ved Jain, Advocate &  
Sh. Ashish Sachdeva, CA  
Respondent by: Sh. T. Kipgen CIT/DR

Date of hearing: 01.12.2021

Date of order : 03.12.2021

**ORDER**

**PER K. NARASIMHA CHARY, J.M.**

Aggrieved by the order dated 09.11.2018 passed by the learned Commissioner of Income Tax (Appeals)-27, New Delhi ("Ld. CIT(A)") for the assessment year 2011-12, in the case of Pawan Kansal("the assessee"), Revenue preferred this appeal.

2. Brief facts of the case are that the assessee is an individual and engaged in the business of manufacturing and trading of SS steel cutlery and utensils. For the assessment year 2011-12, they have filed their

return of income on 30.09.2011 declaring income of Rs.1,78,90,740/-. Assessment u/s. 143(3) of the Income-tax Act (for short "the Act") was complete by order dated 31.03.2014 by making four additions, namely, (i) Rs.3,35,51,154/- on account of sale of finished goods outside the books of accounts, (ii) Rs.59,24,490/- on account of undervaluation of closing stock, (iii) Rs.6,55,770/- on account of disallowance of expenses on account of non-deduction of withholding tax and (iv) Rs.2,78,310/- on account of disallowance of donation u/s. 80G. Assessee challenged the additions at Sl. No. (i) to (iii) above and by order dated 08.08.2016, Id. CIT(A) deleted all the three additions that were challenged in the first appellate proceedings. Against such finding, Revenue preferred appeal before the Tribunal in ITA No. 6361/Del/2016, challenging the deletion of Rs.59,24,490/- on account of under valuation of finished stock and by order dated 26.12.2017, the Tribunal dismissed the Revenue's appeal and confirmed the findings of the Id. CIT(A).

3. There was a search, seizure and survey operation u/s. 132/133A of the Act on 08.07.2015 and on subsequent date in the case of the assessee, pursuant to which notice u/s. 153A of the Act was issued to the assessee. Assessee, in response, filed return of income on 24.10.2016 declaring income at Rs.1,78,90,740/-. Learned Assessing Officer by order dated 29.12.2017 passed u/s. 153A read with section 143(3) of the Act, without making any new addition, repeated the additions that were made in the order dated 31.03.2014, originally passed u/s. 143(3) of the Act. This time, the assessee challenged all the four additions before the Id. CIT(A), but as could be seen from the impugned order, not pressed the ground relating to addition of Rs.2,78,310/- on account of donation

added back. Recording the same, Id. CIT(A) confirmed this addition. In respect of other three additions, the Id. CIT(A) observed that since all these additions emanate from the order u/s. 143(3) of the Act and none of such addition was sustained in the appellate proceedings before the CIT(A) as well as ITAT, such additions cannot be sustained in this round of litigation also.

4. Assessee produced the copy of the assessment order dated 31.03.2014, copy of the order of the first appellate authority passed on 08.08.2016 and the order dated 26.12.2017 of the Tribunal in ITA No. 6361/Del/2016. All these documents establish that the very same additions that were made in the order dated 31.03.2014 originally passed u/s. 143(3) of the Act were repeated in the order dated 29.12.2017 passed u/s. 153A read with section 143(3) of the Act and as much as none of such additions was sustained by the orders of the first and second appellate authorities, now also they cannot be sustained.

5. In these circumstances, we do not find any illegality or irregularity in the findings of the Id. CIT(A) and the same have to be upheld.

6. In the result, appeal of the Revenue is dismissed.

Order pronounced in the open court on this the 3<sup>rd</sup> day of December, 2021.

Sd/-

**(ANIL CHATURVEDI)**  
**ACCOUNTANT MEMBER**

Dated: 03/12/2021

'aks'

Sd/-

**(K. NARSIMHA CHARY)**  
**JUDICIAL MEMBER**