

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI “SMC” BENCH: NEW DELHI**

**(THROUGH VIDEO CONFERENCING)**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER**

**ITA No.1858/Del/2019**

**[Assessment Year : 2009-10]**

Shreedhar Estates Pvt.Ltd., B-1, FF, Saket, New Delhi-110017. PAN-AABCD9255C	vs	ACIT, Central Circle-06, New Delhi.
<b>APPELLANT</b>		<b>RESPONDENT</b>
<b>Appellant by</b>	None	
<b>Respondent by</b>	Shri Om Parkash, Sr.DR	
<b>Date of Hearing</b>	24.03.2022	
<b>Date of Pronouncement</b>	26.04.2022	

**ORDER**

**PER KUL BHARAT, JM :**

The present appeal filed by the assessee for the assessment year 2009-10 is directed against the order of Ld. CIT(A)-24, New Delhi dated 19.12.2018. The assessee has raised following grounds of appeal:-

1. *“That on the facts and in the circumstances of the case, the order passed u/s 153C is illegal and bad in law and is not based on correct appreciation of facts of the case of the assessee.*
2. *The learned CIT (Appeal) has erred on facts and circumstances of the case to confirm the addition of Rs 14,00,000/- on account of alleged unaccounted receipt on sale of flat at 322, Neb Sarai while the same has already been shown in the books of Accounts of assessee and is included in the turnover of assessee.*
3. *The Learned A.O has further erred on facts and in law in not properly considering the explanation of the assessee.*
4. *The learned A.O has erred on facts and circumstances of the case in charging the interest u/s 234A, at Rs 4,326/- and 234B at Rs 4,02,317/- & 234D Rs 11,868/-.*

5. *Assessee reserves the right to raise any additional ground of appeal during the course of hearing.*

*It is therefore prayed that the reassessment so made be quashed in to or such other relief as requested.”*

2. At the time of hearing, no one appeared on behalf of the assessee. It is seen from the record that on various occasions, there is no representation on behalf of the assessee. Since 07.06.2021, the assessee is not attended the proceedings. Notice sent through speed post is returned back unserved with remark “no such person”. The assessee has not provided any new address to the Registry. Therefore, the appeal is taken up for hearing in the absence of the assessee.

### **FACTS OF THE CASE**

3. Facts giving rise to the present appeal are that in this case, search and seizure action u/s 132 of the Income Tax Act, 1961 (“the Act”) was carried out on Radikal Group by the Revenue on 07.01.2015. During the course of search operations, a hard disk was seized. Certain other details related to the assessee company were also seized. Thereafter, notice u/s 153C of the Act was issued on 15.11.2016 to the assessee. In response to the notice, it was stated by the assessee that the return filed u/s 139(1) of the Act may be treated as income tax return filed in response to the notice u/s 153C of the Act. The Assessing Officer (“AO”) issued questionnaire to the assessee. As per AO, no satisfactory response was provided by the assessee therefore, he made addition of Rs.14,00,000/- on account of the proceeds of sale of property.

4. Aggrieved against this, the assessee preferred appeal before Ld.CIT(A), who after considering the submissions, sustained the addition as made by the AO.

5. Aggrieved against the order of Ld.CIT(A), the assessee preferred appeal before the Tribunal.
6. Ground Nos. 1 & 5 of assessee's appeal are general in nature, need no separate adjudication.
7. Ground No.2 & 3 raised by the assessee are against the sustaining of addition of Rs.14,00,000/- on account of alleged unaccounted receipt on sale of flat at 322, New Sarai.
8. Ld.Sr.DR submitted that the assessee failed to explain about the transaction related to sale of property i.e. Flat No.322, Neb Sarai, New Delhi and same was not found recorded in the books of accounts of the assessee. Ld.Sr.DR submitted that there was no satisfactory explanation regarding this transaction therefore, the authorities below was justified in making the addition.
9. I have heard Ld. Sr.DR and perused the material available on record and gone through the orders of the authorities below. I find that Ld.CIT(A) has given finding on facts by observing as under:-

*7.1. "I have perused the assessment order and the written submissions of the AR of the appellant. I have also examined and considered the application of the appellant for admission of additional evidences, comments of the AO thereon and the rejoinder of the AR of the appellant on the report containing comments of the AO. After thorough perusal of the material on record I find that the AO made addition of Rs. 14,00,000/- on account of unaccounted receipts as the appellant failed to produce documentary evidences in support of transactions of property mentioned in the seized material. It is a fact that the AO could not verify whether the transactions of Rs. 2,00,000/-, 8,00,000/- and 4,00,000/- entered on 22.10.2008, 22.12.2008 and 10.02.2009 were reflected in books of account or not. It is also a fact that books of account relating to AY 2009-*

10 were not submitted by the appellant in course of assessment proceedings. However, the appellant in course of assessment proceedings had submitted that the proceeds in respect of sale of property had been accounted for in books of accounts which is reflected in the turnover exhibited in the income tax return.

7.2 The auditor in his report dated 05.09.2009 has reported that examination of books of accounts reveals that proper books of account as required by law have not been kept by the appellant company. However, the appellant company failed to produce the books of accounts for the AY 2009-10 before the AO in course of assessment proceedings. The non-production of books of accounts for AY 2009-10 before the AO without any valid reason negates the authenticity of various claims of the appellant in course of appellate proceedings.

7.3 It is bewildering to note that the appellant company failed to produce books of accounts of AY 2009-10 although it produced books of accounts for AY 2010-11 and subsequent assessment years before the AO. The failure of the appellant company to produce books of accounts for AY 2009-10 before the AO puts a question mark on the authenticity of details of sales of Rs. 2,15,00,000 - in respect of property at 322, Neb Sarai, New' Delhi out of total sales of Rs. 2,23,65,000/- shown in the audited accounts.

7.4 During the course of appellate proceedings the appellant has prayed for admission of additional evidences which have been examined. The comments of the AO on their admissibility have also been considered. After due consideration I am of the opinion that even if documentary evidences procured from registering authorities in respect of property transactions made in cash with Sh. Sanjeev Kumar and Sh. Prem Sagar for Rs.8,00,000/- and Rs. 4,00,000/- respectively have been submitted for admission of additional evidences but the fact remains that, in the absence of books of accounts and considering the transaction having been made in cash, their accounting in total turnover (as reflected in auditor's report and as claimed by the appellant) is highly unacceptable. Further, the documentary evidence in the form of General Power of Attorney, Agreement to Sale and Affidavit in respect of property transaction with Sh. K. K. Pahwa

*for Rs.2,00,000/- in cash is found to be not registered with the registering authorities and therefore lacks reliability and credibility. In the absence of books of accounts and considering the transaction having been made in cash, the accounting of cash transaction of Rs. 2,00,000/- with Sh. K. K. Pahwa in total turnover (as reflected in auditor's report) is doubtful and unacceptable. In such situation, the additional evidences of breakup of details of sales of Rs. 2,15,00,000/- in respect of property at 322, Neb Sarai, New Delhi out of total sales of Rs. 2,23,65,000/- and other documentary evidences cannot be admitted. Thus I hold that when all the above property transactions with Sh. Sanjeev Kumar, Prem Sagar and Sh. K. K. Pahwa are found to have been made in cash their accounting in total turnover of Rs.2,23,65,000/- is unacceptable in the absence of books of accounts for AY 2009-10 which were not produced before the AO at the assessment stage.*

*7.5 In view of the above the AO is fully justified in treating the amount of Rs.14,00,000/- as unaccounted receipts of the appellant. Therefore, the addition of Rs.14,00,000/- to the total income of the appellant is confirmed. Thus Ground Nos. 2 & 2.1 are dismissed.”*

10. The above finding on fact is not controverted by the assessee. Therefore, I do not see any reason to interfere in the finding of Ld.CIT(A), the same is hereby affirmed. Thus, Ground Nos. 2 & 3 raised by the assessee are dismissed.

11. Ground No.4 of the assessee's appeal is against the charging of interest u/s 234A, 234B and 234D of the Act. The charging of interest is consequential in nature. The assessee has not pointed out any infirmity into the findings of authorities below regarding charging of interest. Therefore, Ground No.4 raised by the assessee is rejected.

12. In the result, the appeal of the assessee is dismissed.

Order pronounced in the open Court on 26<sup>th</sup> April, 2022.

**Sd/-**

**(KUL BHARAT)  
JUDICIAL MEMBER**

*\* Amit Kumar \**

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT, NEW DELHI