

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'C', NEW DELHI**

**BEFORE SH. N. K. BILLAIYA, ACCOUNTANT MEMBER
AND
SH. YOGESH KUMAR US, JUDICIAL MEMBER**

ITA No.6543/Del/2017
Assessment Year: 2006-07

ACIT Central Circle – 26, New Delhi	Vs	Jayanti Dalmia, 2nd Floor, Indraprakash Building 21, Barakhamba Road, New Delhi PAN No.AADPD9437D
(APPELLAN		(RESPONDENT)

Appellant	Sh. Surender Pal, CIT (DR)
Respondent	Sh. Shiv Kumar Arora, CA

Date of hearing:	16/06/2022
Date of Pronouncement:	16/06/2022

ORDER

PER N.K. BILLAIYA, AM:

This appeal by the revenue is preferred against the order of the CIT(A)-29, New Delhi dated 11.08.2017 pertaining to A.Y.2006-07.

2. The grievance of the revenue read as under :-

1. *Whether the Ld. CIT(A) was right in rendering addition made in the hands of the appellant infructuous on the basis of similar addition in the hands of Sh. Anurag Dalmia at CIT(A)*

level, when the addition has not reached finality and should have been held protectively in the hands of the assessee.

3. At the very outset the Counsel for the assessee stated that on identical facts the quarrel travelled up to the Tribunal and this Tribunal vide order dated 07.02.2022 has deleted the impugned addition.

4. The DR could not bring any distinguishing decision in favour of the revenue.

5. We have given a thoughtful consideration to the orders of the authorities below. While allowing the appeal the CIT(A) has made following observations :-

“6. Ground no.3 for the AYs.2006-07 and 2007-08 relate to contention of the appellant against addition made by the AO under section 69 of the IT Act towards unexplained investment in relation to an alleged offshore bank account HSBC Bank Geneva, Switzerland. This ground has been adjudicated by me in the case of Sh. Anurag Dalmia for the AY 2006-07 and 2007-08 in which after discussing the issue involved in detail, the appeals have been dismissed. On identical facts, for these years in the appellant's case also, the appeal on this ground are dismissed. However, since the additions in the case of appellant were made on protective basis and the substantive additions made in the case of Sh. Anurag Dalmia have been confirmed by me, therefore, the additions made on protective basis deserves to be deleted.”

6. We find that this Tribunal in ITA No.6544/Del/2017 for A.Y. 2007-08 vide order dated 07.02.2022 has held as under :-

“10. We are of the considered view that when the substantive addition in the hands of Shri Anurag Dalmia has already been deleted by co-ordinate bench of the Tribunal vide order dated 15.02.2018 (supra), the protective addition in the hands of the assessee is also not sustainable in the eyes of law. So finding no illegality or perversity in the impugned order passed by the learned Commissioner of Income-tax (Appeals), present appeal filed by the Revenue is hereby dismissed.”

7. Respectfully following the finding of the coordinate Bench (supra) we decline to interfere with the findings of the CIT(A). The appeal of the revenue is dismissed.

8. Decision announced in the open court on 16.06.2022.

Sd/-
(YOGESH KUMAR US)
JUDICIAL MEMBER

NEHA, Sr. Private Secretary

Date:- 16.06.2022

Copy forwarded to:

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

Sd/-
(N. K. BILLAIYA)
ACCOUNTANT MEMBER

ASSISTANT REGISTRAR
 ITAT NEW DELHI