

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

**BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER, AND  
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

ITA No. 4811/DEL/2014 [A.Y 2011-12)

The A.C.I.T  
Central Circle - 25  
New Delhi

Vs. M/s Bulland Buildtech Pvt Ltd  
A -2, Devli Road, Khanpur  
New Delhi

PAN: AACCB 2352 D

(Applicant)

(Respondent)

Assessee By : None  
Department By : Shri R.K. Gupta, CIT-DR

**Date of Hearing : 01.09.2022**  
**Date of Pronouncement : 01.09.2022**

**ORDER**

**PER N.K. BILLAIYA, ACCOUNTANT MEMBER:-**

This appeal by the Revenue is preferred against the order of the  
ld. CIT(A) - 1, New Delhi dated 23.06.2014 pertaining to Assessment  
Year 2011-12.

2. The grievances of the assessee read as under:

*"On the facts and in the circumstances of the case the Ld. CIT(A) has erred in:-*

1. The order of the CIT(A) is not correct in law and facts.
2. On the facts and circumstances of the case, the Ld. CIT(A) has erred in deleting the addition of Rs. 1,55,250/- made by Assessing Officer on account of unaccounted cash.
3. On the facts and circumstances of the case the Ld. CIT(A) has erred in deleting the addition of Rs. 13,05,300/- made by Assessing Officer on account of unaccounted cash receipts.
4. On the facts and circumstances of the case the Ld. CIT(A) has erred in deleting the addition of Rs. 13,70,610/- made by Assessing Officer on account of cash receipts against booking of flats.
5. On the facts and circumstances of the case the Ld. CIT(A) has erred in deleting the addition of Rs. 8,76,481/- made by Assessing Officer on account of unaccounted cash payment.
6. On the facts and circumstances of the case the Ld. CIT(A) has erred in deleting the addition of Rs. 50,00,000/- made by Assessing Officer on account of unaccounted cash payment to

Gaursons.

7. On the facts and circumstances of the case the Ld. CIT(A) has erred in deleting the addition of Rs.5,27,00,000/- made by Assessing Officer on account of share application money.

8. On the facts and circumstances of the case the Ld. CIT(A) has erred in directing the Assessing Officer for verification on one hand and on the other hand deleted the addition of Rs.11,60,20,800/- made by Assessing Officer on account of unexplained work-in-progress.

9. On the facts and circumstances of the case the Ld. CIT(A) has erred in deleting the addition of Rs.1,50,68,811/- made by Assessing Officer on account of account of bogus billing.

10. On the facts and circumstances of the case the Ld. CIT(A) has erred in deleting the addition of Rs.1,35,42,785/- made by Assessing Officer on account of money transaction."

3. A perusal of our record shows that this appeal was first listed for hearing on 07.09.2017 and, thereafter, this appeal was getting adjourned for one reason or the other and adjournment was mostly sought by the ld. counsel for the assessee.

4. We find that after 09.12.2020, none appeared on behalf of the assessee and then in the month of November 2021, the ld. Authorized representative for the assessee Shri Saubhabya Agarwal appeared twice i.e. on 16.11.2021 and 18.01.2022 and on both the occasion, he took adjournment. Thereafter, once again nobody attended the appellate proceedings. We, therefore, decided to proceed exparte.

5. The ld. DR was heard at length. Case records carefully perused.

6. Briefly stated, the facts of the case are that search and seizure operation u/s 132 of the Income-tax Act, 1961 [hereinafter referred to as 'The Act'] was carried out in the case of Bulland Buildtech Pvt Ltd belong to the Bulland group on 31.01.2011. Statutory notices were accordingly issued and served upon the assessee.

7. During the course of scrutiny assessment proceedings, the Assessing Officer observed that search and seizure action revealed cash of Rs. 1,55,250/- which was not properly explained by the assessee and, accordingly, addition was made.

8. During the search operation, a letter was found which clearly revealed the figure of Rs. 13.05 lakhs and the assessee was asked to explain the same.

9. On receiving no plausible reply, addition of Rs. 13.05 lakhs was made.

10. The Assessing Officer further observed that as per the seized document, the assessee received flat booking amount from customers amounting to Rs. 13,70,610/-. In the absence of any plausible reply, addition was made.

11. On the basis of seized material, the Assessing Officer sought explanation from the assessee to explain the cash payment made by the assessee amounting to Rs. 8,76,481/-.

12. The assessee furnished a vague explanation explaining that these payments were made to employees of the assessee company as interest money.

13. The Assessing Officer observed that no evidence was furnished in so far as utilization of interest money by the employees and, therefore, added Rs. 8,76,481/-.

14. Proceeding further, referring to the seized material, the Assessing Officer sought explanation from the assessee to explain cash payment of Rs. 50 lakhs paid to Gaursons Hightech Infrastructure Pvt Ltd.

15. In its reply, the assessee stated that the said payment was made through account payee cheque and not in cash but no evidence was furnished which prompted the Assessing Officer to make addition of Rs. 50 lakhs.

16. The Assessing Officer noticed that the assessee has made allotment of shares of Bulland Buildtech aggregating to Rs. 7.20 crores for which the Assessing Officer asked the assessee to furnish details of share holders alongwith their tax returns.

17. On receiving no plausible reply, the Assessing Officer asked the assessee to show cause as to why this share money should not be treated as undisclosed income of the assessee company.

18. Again, no reply was received by the Assessing Officer who was left with no choice but to make addition of Rs. 5.27 crores being application money received for the year under consideration.

19. During the course of scrutiny assessment proceedings, the assessee was asked to provide complete details with regard to cost of construction of 180 flats as well as details of persons who booked these flats.

20. In its reply, the assessee explained that as per Accounting Standard Company Law and Income Tax Act, the assessee follows mercantile system of accounting and hence booking amount of flat is advance payment of sale proceeds of flats, which cannot be treated as income of the assessee.

21. The claim of the assessee was rejected by the Assessing Officer who made addition of Rs. 11,60,20,800/-.

22. The Assessing Officer further found that the assessee has made bogus billing of Rs. 1,50,68,811/- for which the assessee was asked to furnish details of creditors vide letter dated 05.03.2013.

23. The assessee furnished details but the Assessing Officer observed that the assessee has failed to furnish confirmed copy of account of sundry creditors and building material suppliers and made addition of Rs. 1,50,68,811/-.

24. Confronting the documents seized during search and seizure operation, the Assessing Officer sought clarification from the assessee in respect of money lending business in respect of money from Prabha Somanu and Bhiduri.

25. On receiving no plausible reply, the Assessing Officer made addition of Rs. 1,35,42,785/-.

26. Assessment order was vehemently challenged before the Id. CIT(A) and after considering the facts and circumstances, the Id. CIT(A) deleted all the additions made by the Assessing Officer by putting the entire burden on the Assessing Officer.



27. We have given thoughtful consideration to the orders of first appellate authority. As mentioned elsewhere, the assessee has not attended the appellate proceedings before us and on few occasions, when the ld. counsel for the assessee appeared, he took adjournments. Basis the findings of the ld. CIT(A), we are of the considered opinion that it would be incorrect to put the burden of proof on the Assessing Officer when the onus totally lies upon the assessee to explain its returned income and explain the documents found and seized during the search operation.

28. In our considered opinion, the ld. CIT(A) has deleted the additions not based on sound judicial precedents. Therefore, the findings of the ld. CIT(A) are set aside and that of the Assessing Officer are restored.

29. In the result, the appeal of the Revenue in ITA No. 4811/DEL/2014 is allowed.

The order is pronounced in the open court on 01.09.2022.

Sd/-

**[ANUBHAV SHARMA]**  
**JUDICIAL MEMBER**

Sd/-

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

Dated: 01<sup>st</sup> September, 2022.

VL/

Copy forwarded to:

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

Asst. Registrar,  
ITAT, New Delhi

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