

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH “A” DELHI**

**BEFORE SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER
&
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

I.T.A. No.2009/DEL/2021
Assessment Year 2017-18

Assistant Commissioner of Income Tax, Central Circle-14, New Delhi.	Vs.	Shri Anuj Bansal, Prop. Of M/s. Maa & Son, 1170, 2 nd Floor, Kucha Mahajani, Chandani Chowk, New Delhi.
TAN/PAN: AGLPB0846N		
(Appellant)		(Respondent)

Appellant by:	Shri P. Praveen Sidharth, CIT-D.R.		
Respondent by:	Shri Kapil Goel, Adv.		
Date of hearing:	31	10	2022
Date of pronouncement:	31	10	2022

ORDER

PER PRADIP KUMAR KEDIA, A.M.:

The captioned appeal has been filed by the Revenue against the order of the Commissioner of Income Tax (Appeals)-XXVII, New Delhi [‘CIT(A)’ in short] dated 16.08.2021 arising from the assessment order dated 31.12.2019 passed by the Assessing Officer (AO) under Section 153A r.w. Section 143(3) of the Income Tax Act, 1961 (the Act) concerning AY 2017-18.

2. The grounds of appeal raised by the Revenue read as under:

“i. That the Ld. CIT(A) has erred on facts of the case by ignoring the cash deposit of Rs.1,78,62,500/- out of total deposit of Rs.2,16,87,500/- during demonetization period.

ii. Whether on the facts and circumstances of the case and in law

the ld. CIT(A) has erred in restricting addition of Rs.2,16,87,500/- on account of cash deposit during demonetization to Rs.35,50,000/- despite the fact that assessee failed to furnish complete cash book but only cash book related to 2- 3 days and this failed to satisfy the AO about the true nature and source of cash deposit.

iii (a) The Ld. CIT(A) is erroneous and not tenable in law and on facts.

(b) The appellant craves leave to add, amend any/all the grounds of appeal before or during the course of the hearing of the appeal”

3. When the matter was called for hearing, the ld. counsel for the assessee in the Revenue Appeal submitted that for the Assessment Year 2017-18 in question, the assessee had also filed a Cross Appeal/Cross Objection in ITA No.1016/Del/2021 order dated 29.04.2022 wherein assessment order passed under Section 153A r.w. Section 143(3) of the Act dated 31.12.2019 which has given rise to the present cause of action, itself has been quashed by the Co-ordinate Bench having regard to the foundational legal infirmities noted with reference to Section 153D of the Act while framing the assessment order under Section 153A of the Act. It was thus submitted that in the light of the fact that the assessment order itself does not survive, the appeal of the Revenue is required to be dismissed *in limine*.

4. In the absence of rebuttal of the facts pointed out on behalf of the assessee by the Department, the aforesaid plea as raised on behalf of the assessee deserves acceptance. Thus, the appeal of the Revenue is dismissed *in limine*.

5. In the result, the appeal of the Revenue is dismissed *in limine*.

Order was pronounced in the open Court on 31/10/2022.

Sd/-

**[CHANDRA MOHAN GARG]
JUDICIAL MEMBER**

DATED: /10/2022

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Sd/-

**[PRADIP KUMAR KEDIA]
ACCOUNTANT MEMBER**