

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

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

**ITA No.4137 & 4138/DEL/2017  
Assessment Year: 2013-14 & 2014-15**

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| <b>Trilok Chand<br/>Chaudhary 39, Gadai Pur,<br/>Mehrauli, NewDelhi<br/>PAN No.AAEP0683P<br/>(APPELLANT)</b> | <b>Vs</b> | <b>ACIT<br/>Central Circle – 26<br/>New Delhi<br/>(RESPONDENT)</b> |
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| Appellant by  | Sh. C. S. Anand, Advocate   |
| Respondent by | Sh. H. K. Choudhary, CIT DR |

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|------------------------|------------|
| Date of hearing:       | 12/01/2023 |
| Date of Pronouncement: | 12/01/2023 |

**ORDER**

**PER N. K. BILLAIYA, AM:**

ITA No.4137/Del/2017 and 4138/Del/2017 are two appeals by the assessee preferred against common order of the CIT(A)-31, New Delhi dated 31.03.2017 pertaining to A.Y.2013-14 and 2014-15.

2. Since common grievance is involved in both these appeals and since the order of the first appellate authority is a consolidated order for both the years, both the appeals are

disposed of by this common order for the sake of convenience and brevity as the underlying facts in the issues are identical in both the years under consideration.

3. The common grievance in both the appeals is that the CIT(A) erred in restricting the addition made u/s. 2(22)(e) of the IT Act to the extent of accumulated profits. By doing so, the Ld. CIT(A) exceeded his jurisdiction/ powers given u/s. 251 of the Act.

4. Briefly stated the facts of the case are that during the course of the scrutiny assessment proceedings and on perusal of the balance sheet the AO noticed that in A.Y.2013-14 the assessee has received advances from Dream Green land Realtors Pvt. Ltd. of Rs.4.49 crores, Rosemary Properties Pvt. Ltd. of Rs.2.25 crores, Plummy Estates Pvt. Ltd. of Rs.1.61 crores and M/s. Reeve Developers Pvt. Ltd. of Rs. 2.89 crores. The AO also found that in all these companies the assessee was holding 50% of the shares.

5. In A.Y.2014-15 it was found that the assessee has received advances from Brownie Estates Pvt. Ltd. of Rs.49 lacs, Rosemary Estates Pvt Ltd. of Rs.25 lacs and Plummy Estates Pvt Ltd. of Rs.3.35 crores. The AO again found that the assessee is holding 50% shares in these companies.

6. Invoking the provisions of section 2 (22) (e) of the Act the assessee was show caused to explain why addition should not be made treating the impugned advances as deemed dividend. In his reply the assessee strongly contended that these advances were taken for purchase of land for the respective companies and, therefore, are outside the purview of section 2 (22) (e) of the Act.

7. The reply of the assessee did not find any favour with the AO who was of the firm belief that the assessee has not given any evidence in support of his contention and accordingly made the addition of Rs.11.24 crores in A.Y.2013-14 and Rs. 4.09 cores in A.Y.2014-15.

8. The assessee challenged the addition before the CIT(A) but without any success.

9. Before us the assessee vehemently contended that the impugned advances were for the purchase of property for the respective companies but once again failed to furnish any demonstrative of evidence in support of his contention.

10. Per contra the DR strongly supported the findings of the CIT(A).

11. We have carefully considered the orders of the authorities below. In so far as the claim of the assessee is that the impugned advances were for the purchase of land for the respective companies is concerned, is not supported by any documentary evidence. At the same time explanation-2 of section 2 (22) (e) of the Act defines accumulated profit and as per provision of section 2 (22) (e) it is to the extent to which the company possesses accumulated profit which means that the deemed dividend cannot exceed the accumulated profit of the company who has given advance to the share holder. The CIT(A) confirming the addition has simply directed the AO to restrict the addition to the extent of accumulated reserves and surplus as per books of

account of the lending companies as provided section 2 (22) (e) of the Act and as reported by the AO as per the remand reports. We, therefore, do not find any error or infirmity in these direction of the CIT(A) and accordingly both the appeals by the assessee are dismissed.

6. Decision announced in the open court on 12.01.2023.

Sd/-  
**(ANUBHAV SHARMA)**  
**JUDICIAL MEMBER**

\*NEHA\*

Date:- .01.2023

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