

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'F' NEW DELHI**

**BEFORE SHRI N.K. CHOUDHRY, JUDICIAL MEMBER
AND
DR. B.R.R. KUMAR, ACCOUNTANT MEMBER**

**ITA No. 2875/Del/2019
Assessment Year: 2013-14**

DCIT, Central Circle-03,
New Delhi.

Versus Partani Appliances P. Ltd.,
702-E, 7th Floor, Alkarim
Trade Centre, Raniganj,
Secunderabad.

PAN: AABCP3087G

(Appellant)

(Respondent)

Appellant by : None

Respondent by : Sh. T. Kipgen Ld. CIT- DR

Date of hearing: 19.01.2023

Date of order : 01.02.2023

ORDER

PER N.K. CHOUDHRY, J.M.

This appeal has been preferred by the Revenue Department against the order dated 22.01.2019, impugned herein, passed by the learned Commissioner of Income-tax (Appeals)- 23, New Delhi (in short "Ld. Commissioner"), u/s. 250 of the Income-tax Act, 1961 (in short 'the Act') for the assessment year 2013-14.

2. In the instant case, search and seizure proceedings u/s. 132 of the Act were conducted in the case of Shri R.K. Kedia (RKK) Group and its group concerns and residential/factory premises of partners, directors and proprietors of the group on 13.06.2014, in which incriminating documents pertaining to the Assessee were found and seized from the premises of Shri Raj Kumar Kedia, which were handed over by the Assessing Officer of Shri Kedia to the Assessing Officer of the Assessee.

Thereafter, after recording the satisfaction, vide notice dated 20.09.2016 u/s. 153C r.w.s. 153A of the Act, the Assessee was asked to furnish the return of income. Vide letter dated 23.12.2016, the Assessee asked to treat the original return of income filed on 07.09.2013 whereby an income of Rs.2,84,950/- was declared, as the return filed in response to notice u/s. 153C of the Act. The Assessing Officer ultimately made an addition of Rs.2,75,00,000/- by holding as under :

4.9 In view of the above discussion, it is clear that the assessee has entered into a sale- purchase agreement dated: 15.09.2012 in relation to immovable property 1-9-594 to 596, Adikemt, Hyderabad. In respect of the said transaction, it has made payment of Rs. 2.75 crores, of which Rs. 2.5 crores was through banking channel and Rs. 25 lakhs by cash (confirmation of which was never given by the assessee despite being specifically asked for in the show-caused notice dt: 02.11.2017). Since during the FY 2012-13, above mentioned property was not disclosed in the books of accounts, an addition of Rs. 2.75 crores in being made in the total income of the assessee for the AY 2013-14 on account of unexplained investment u/s 69 of the Act. Further, in view of the discussion made, I am satisfied that assessee has concealed income to the tune of Rs. 2.75 Crores and hence Penalty u/s 271(1)(c) is being initiated separately.

3. The Assessee being aggrieved preferred first appeal before the Id. Commissioner. The Id. Commissioner though upheld the addition on merits, however, by relying upon the judgment passed by the Hon'ble Delhi High Court in the case of CIT vs. Kabul Chawla (2015) 61 taxmann.com 412(Delhi) and in the case of CIT vs. Meeta Gutgutia (2017) 82 taxmann.com 287 (Delhi) allowed the appeal of the Assessee on legal ground by quashing the assessment order mainly on the reason that the material used by the Assessing Officer for making the above stated addition cannot be said to be "incriminating material unearthed during the search".

4. Having heard the parties and perusing the material available on record and giving thoughtful consideration to the peculiar facts and circumstances of the case, we observe that admittedly, the addition is not based on any incriminating material.

It is also a fact that the Revenue Department subsequently issued notice u/s. 148 of the Act on dated 07.04.2021 and thereafter show cause notice on 15.12.2021 and notice u/s. 142(1) of the Act on dated 12.03.2022 and ultimately passed the assessment order u/s. 148A(d) of the Act, whereby the similar addition has been made by taking into consideration the peculiar facts relating to same transaction of Rs.2,75,00,000/- as involved in this case.

Hence, in the aforesaid circumstances, we are inclined not to interfere in the decision of the Id. Commissioner in deleting the addition on legal aspect, while relying upon the judgments passed by the Hon'ble Delhi High Court in the case of CIT vs. Kabul Chawla (supra) and CIT vs. Meeta Gutgutia (supra). Consequently, the impugned order does not warrant any interference and the Revenue's appeal is liable to be dismissed.

5. In the result, the appeal filed by the Revenue stands dismissed.

Order pronounced in the open court on 01/02/2023.

Sd/-

(DR. BRR KUMAR)
ACCOUNTANT MEMBER

Sd/-

(N.K. CHOUDHRY)
JUDICIAL MEMBER

*aks/-