

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

**BEFORE SH. ANIL CHATURVEDI, ACCOUNTANT MEMBER AND
SH. ANUBHAV SHARMA, JUDICIAL MEMBER**

ITA Nos. 1591 & 1590/Del/2018
(Assessment Years : 2012-13 & 2006-07)

Om Prakash Kukreja BGJC & Associates LLP, Raj Tower, G-1, Alakhnanda, Community Centre, New Delhi - 110 065 PAN No. AAKPK 8092 Q (APPELLANT)	Vs.	ACIT Central Circle - 9 New Delhi (RESPONDENT)
--	-----	--

Assessee by	Shri Rajeshwar Prasad Painuly, CA
Revenue by	Ms. Sarita Kumari, CIT-D.R.

Date of hearing:	10.05.2023
Date of Pronouncement:	13.06.2023

ORDER

PER ANIL CHATURVEDI, AM:

These two appeals filed by the Assessee are directed against the order dated 31.05.2016 passed by the Commissioner of Income Tax (Appeals)-25, Delhi relating to Assessment Years 2006-07 & 2012-13.

2. Before us, at the outset, both the parties submitted that though the appeals filed by the assessee are for two different assessment years but the facts and issues involved in both the appeals are identical except for the assessment year and the

amounts involved and therefore the submissions made by them while arguing one appeal would be equally applicable to the other appeal also and thus both the appeals can be heard together. In view of the aforesaid submissions of both the parties, we, for the sake of convenience, proceed to dispose of both the appeals by a consolidated order. We, however, proceed with the facts in ITA No.1591/Del/2018 for A.Y. 2012-13.

3. Brief facts of the case as culled out from the material on record are as under:-

4. Assessee is an individual stated to be engaged in the business of trading of hardware items like paint, oil etc. AO has noted that consequent to search conducted in the Aerens Group on 17.08.2011, search & seizure operations u/s 132 of the Act was conducted on 10.02.2012 in the case of the assessee. Thereafter, the case was taken up for scrutiny and notices u/s 143(2) & 142(1) of the Act were served upon the assessee. Thereafter, assessment was framed u/s 143(3) of the Act vide order dated 27.03.2014 and the total income was determined at Rs.3,02,51,022/-.

5. Aggrieved by the order of AO, assessee carried the matter before CIT(A) who vide order dated 31.05.2016 in Appeal No.123/14-15/4/15-16 dismissed the appeal of the assessee and also enhanced the income. Aggrieved by the order of CIT(A),

assessee is now in appeal and has raised the following grounds of appeal :

“Ground No.-1.

The Honorable CIT (A) has not followed the law and natural justice while confirming additions and disallowances by the Ld. A.O

Ground No.-2

The Honorable CIT (A) has erred in law and on facts by confirming addition of Rs. 7,75,000/- income of the assessee net profit at 5% on estimated sales of Rs 15.50,000/- by invoking the provisions of the section 145 (3) of the Income Tax Act. 1961.

Ground No.-3

The Honorable CIT (A) has erred in law and on facts by confirming addition to the income of the assessee by considering fictitious interest of Rs. 7,87,080/- as explained in appeal filed for AY 2008-09, no such loan was advanced by the assessee at any time. The question of interest on the same does not arise.

Ground No.-4

The Honorable CIT (A) has erred in law and on facts by confirming addition to the income of the assessee by considering few entries/ amounts written on loose papers as unexplained loan advanced Amounting to Rs. 54,03,669/- added during the A.Y. 2012-13.

Ground No.-5

The Honorable CIT (A) has erred in law and on facts by confirming addition to the income of the assessee by considering few entries/ amounts written on loose papers as Interest (24% per annum Rs. 12,96,880/- added during the AY 2012-13.

Ground No.-6

The Honorable CIT (A) has erred in law and on facts by confirming addition of Rs. 18,35,202/- to the income of the assessee as unaccounted investment for the purchase of jewellery U/s 69A of Income Tax Act, 1961.

Ground No. 7

The Honorable CIT (A) has erred in law and on facts by confirming addition of Rs. 1,91,80,800/- to the income of the assessee as unexplained investment in the property U/s 69 of Income Tax Act, 1961.

Ground No.-8

That the Honorable CIT (A) has erred in law and on facts by confirming disallowance of deduction claimed of Rs.1,00,000/- claimed under section 80C on account of LIC paid.

Ground No.-9

The appellant craves leave to add, alter, amend, modify or delete any or all the grounds of appeal before or at the time of hearing.”

6. The grounds raised by assessee in ITA No.1590/Del/2018 for A.Y. 2006-07 reads as under :

“Ground No.-1.

The Honorable CIT (A) has not followed the law and natural justice while confirming additions and disallowances by the Ld. A.O.

Ground No.-2

The Honorable CIT (A) has confirmed order of Ld. A.O. and enhanced the Income by Rs. 69,75,000/-. As far as issue of

determination of the Income from business at Rs. 77,50,000/- as against the mention of the amount of Rs. 7,75,000/- in the assessment order is concerned. The Honorable CIT (A) has erred in law and on fact by confirming addition to the Income of assessee by applying net profit at 5% on estimated sales.

The assessee had already appealed against the estimation of the sales and the estimation of the net profit rate on such estimated sale in ground no.-2 of the appeal and that the ground no.-2 should be allowed which will result in both the figures of Rs. 7,75,000/-, mentioned by the Ld. AO and the figure of Rs. 77,50,000/-

Ground No.-3

The Honorable CIT (A) has erred in law and on facts by confirming the addition to the income of the assessee by treating investment made in shop at G-7 & G-19 in Vaishali as unexplained investment for AY 2006-07.

Ground No.-4

The Honorable CIT (A) has erred in law and on facts by disallowing of deduction u/s 80C Rs.1,25,000/-.

Ground No.-5

The appellant craves leave to add, alter, amend, modify or delete any or all the grounds of appeal before or at the time of hearing.”

7. Before us, at the outset, Learned AR submitted that consequent to the same search in the case of assessee and in the case of Pushpa Rani Kukreja, the wife of the assessee, additions were made in earlier years i.e. from 2006-07 to 2011-12 and the assessee had carried the matter before Hon'ble Tribunal, the Tribunal vide order dated 21/09/2017 for A.Ys. 2006-07, 2007-08, 2008-09, 2009-10 & 2010-11 and ITA Nos.921 &

922/Del/2016 for A.Ys. 2007-08 & 2008-09 order dated 20.11.2017 has restored the issue back to the file of CIT(A). He further submitted that since the issue raised in the present appeal is interconnected with the issues raised in earlier years. The present appeal of the assessee be also restored back to CIT(A).

8. Learned DR on the other hand supported the order of lower authorities.

9. We have heard the rival submissions and perused the material available on record. It is an undisputed fact that during the impugned year under consideration additions have been made on the basis of the material found during the course of search on 10.02.2012. It is also a fact that on the basis of the same search, the assessment for earlier years in the case of the assessee and his wife were restored back to CIT(A) for fresh adjudication by the Co-ordinate Bench of Tribunal. In such a situation, when the issues raised in the present appeal is interconnected with the appeals raised for A.Y. 2006-07, 2007-08, 2008-09, 2009-10, 2010-11 & 2011-12 and which are before CIT(A) pursuant to the direction of the Co-ordinate Bench of Tribunal. We are therefore of the view that the present appeal also needs to be sent back to CIT(A) for adjudication. We therefore, restore the issue back to the file of CIT(A) for fresh adjudication to decide after considering the connected issue in earlier years. The assessee is also directed to promptly file the necessary details

called for by the authorities. Since we are restoring the issue back to the file of CIT(A), we are not adjudicating on merits the other grounds raised by the assessee. **Thus the ground of the assessee is allowed for statistical purposes.**

10. In the result, appeal of assessee in ITA No.1591/Del/2018 for A.Y. 2012-13 is allowed for statistical purposes.

11. Now, we take up assessee's appeal in ITA No.1590/Del/2018 for A.Y. 2006-07.

12. Since the facts and issues raised in other appeal i.e. ITA No.1590/Del/2018 for A.Y. 2006-07 are identical to the facts and issues raised in ITA No.1591/Del/2018 for A.Y. 2012-13 as admitted by both the parties before us, our decision in ITA No.1591/Del/2018 shall apply mutatis mutandis to ITA No. 1590/Del/2018.

13. In the combined result, both the appeals of assessee are allowed for statistical purposes.

Order pronounced in the open court on 13.06.2023

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

**Sd/-
(ANIL CHATURVEDI)
ACCOUNTANT MEMBER**

Date:- 13.06.2023

PY*

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI