

**INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "H": NEW DELHI  
BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER  
AND  
SHRI M. BALAGANESH, Accountant Member**

ITA No. 1087/Del/2022  
(Assessment Year: 2016-17)

DCIT,  
Central Circle-32, New Delhi

Vs. Shri Vinod Kumar Bajaj,  
AE-17, 2<sup>nd</sup> Floor, Tagore  
Garden, New Delhi-110027

(Appellant)

(Respondent)

**PAN: ACOPB4322L**

CO No. 163/Del/2022  
(In ITA No. 1087/Del/2022)  
(Assessment Year: 2016-17)

Shri Vinod Kumar Bajaj,  
AE-17, 2<sup>nd</sup> Floor, Tagore  
Garden, New Delhi-110027

Vs. DCIT,  
Central Circle-32, New  
Delhi

(Appellant)

(Respondent)

**PAN: ACOPB4322L**

Assessee by :

Shri Ved Jain, Adv

Shri Aman Garg, Ca

Revenue by:

Shri Manvendra Goel, CIT DR

Date of Hearing

08/06/2023

Date of pronouncement

27/06/2023

O R D E R

**PER M. BALAGANESH, A. M.:**

1. This appeal in ITA No.1087/Del/2022 is filed by the revenue and the cross objection No. 163/Del/2022 for A.Y. 2016-17 arises out of the order by Id CIT(A)-30, New Delhi in appeal No. 10399/2019-20 dated 17.03.2022 (hereinafter referred to as Id CIT(A) in short) against the order of assessment passed u/s 153 r.w.s 143(3) of the Income Tax Act, 1961 (hereinafter referred to as Act) dated

17.12.2019 by the AO, DCIT, Central Circle-32, New Delhi (hereinafter referred to as Id. AO).

2. The only issue to be decided in this appeal as to whether the Id CIT(A) was justified in deleting the addition made in the sum of Rs. 6,61,50,000/- on account of undisclosed income from election consultancy services in the facts and circumstances of the instant case.

3. We have heard the rival submission and perused the material available on record. The assessee had filed his original return of income for AY 2016-17 on 27.03.2017 declaring income of Rs. 8,15,530/-. This income was processed u/s 143(1) of the Act. A search and seizure operation was carried out at the various premises of Bajaj Group and its associates on 20.04.2017 and search warrant was issued in the name of the assessee. Further, e-mails were seized from RNB House, 2-3, Shivaji Enclave, New Delhi, from the premises of RNB Infrastructure Pvt. Ltd and RNB Leasing and Financial Service. In other words, these e-mails were seized during the course of search warrant executed in the name of RNB Infrastructure Pvt. Ltd and RNB Leasing and Finance Services. The Id AO issued notice u/s 153A of the Act on 10.07.2018 directing the assessee to file return for AY 2016-17. The assessee vide letter dated 18.07.2018 replied that the return of income originally filed on 27.03.2017 may be treated as return in response to notice issued u/s 153A of the Act. The Id AO in the course of search assessment proceedings u/s 153A of the Act issued notice 142(1) of the Act dated 18.10.2019 by alleging that the assessee has rendered election consultancy services and has earned income of Rs. 6,61,50,000/- (126 constituencies X Rs. 5,25,000/- per constituency) based on internal e-mail between Vinod Kumar Bajaj and Kishan Kumar Bajaj which was extracted from the laptop seized during the search of RNB

House, 2-3, Shivaji Enclave, New Delhi. The assessee filed reply letter dated 02.12.2019 and submitted the complete note on business activity and the nature of income which included income from salary of Rs. 60,000/-, business profit of Rs. 8,01,986/- and income from other sources of Rs. 74,246/-. The assessee also filed reply vide letter dated 14.12.2019 and submitted that political survey work is not done by him and the same is the business of RNB International Pvt. Ltd. The assessee further submitted that emails between Vijay Kumar Bajaj and Kishan Kumar Bajaj are internal e-mails where only scope of work was discussed and no such services were indeed rendered by the assessee. The Id AO however, ignored these submissions of the assessee and proceeded to add the income in the sum of Rs. 6,61,50,000/- on the presumption that assessee had rendered these services and earned corresponding income thereon. The Id CIT(A) deleted this addition on the ground that AO had made this addition merely based on surmises and conjectures and without appreciating any corroborative evidence on record.

4. Aggrieved, the revenue is in appeal before us.
5. The Id DR vehemently relied on the order of the Id CIT(A) and the written synopsis filed by him before the bench.
6. Per contra, the Id AR submitted that email found during the course of search conducted in some other premises wherein only the scope of services to be rendered was discussed together with fee thereon. The said email nowhere stated that services had been rendered by the assessee and the assessee is entitled for the consultancy income.

7. From the perusal of the materials available on record, we find that the sole basis of the addition is only internal email dated 17.02.2016 sent by assessee to Shri Kishan Kumar Bajaj, which apparently contained a statement that assessee had entered into an agreement with the Chief Minister of Assam for providing election related consultancy services for the then upcoming Assam Legislative Elections in the month of April, 2016. The entire email is reproduced at page 5 of the assessment order and the same is not reiterated herein for the sake of brevity. The Id AO also found that two emails sent by the assessee to Shri Gaurav Gogoi, son of Chief Minister of Assam, Shri Tarun Gogoi, containing certain election related reports in PDF format. Accordingly, the Id AO had concluded that assessee had rendered election related services and earned consultancy income of Rs. 5,25,000/- per constituency and added in the assessment. In our considered opinion and on perusal of the email, nowhere it states that the assessee had indeed rendered consultancy services to the political party. Email only contains the scope of services to be rendered by the assessee, if the assessee is engaged to do so. In any case, the consultancy charge of Rs. 5,25,000/- is merely an average of figures of Rs. 4,25,000/- and Rs. 6,25,000/- mentioned in the email which has been considered by the Id AO. Moreover, the email does not specify anywhere that the assessee had indeed rendered consultancy services for all the constituencies that are relevant for Assam Legislative Elections. Hence, this very clearly goes to prove that extrapolation has been done by the Id AO by taking a single piece of information contained in the email and alleging that the assessee had rendered services for all the election constituencies in Assam. It was submitted that the email dated 17.02.2016 contained only a general survey that show case quality of services and not as part of services itself. This can never be construed as rendering of actual services by the assessee. We find that nowhere in the email, there is some mention of 126

constituencies in total for which services are rendered. Hence, determination of income based on surmise and conjecture is grossly illegal and incorrect on the part of the AO.

8. We have no hesitation to hold that the entire addition has been made based on the surmises and conjectures without any basis that could be appreciated in the eyes of law. Hence, we find that the Id CIT(A) had rightly appreciated these facts and deleted the addition on which we do not find any infirmity. Accordingly, ground raised by the revenue is dismissed.

9. At the time of hearing, the Id AR submitted that the grounds raised by the assessee in his cross objection are not pressed.

10. In the result, appeal of the revenue is dismissed and cross objection of the assessee is dismissed as not pressed.

Order pronounced in the open court on 27/06/2023.

-Sd/-  
**(KUL BHARAT)**  
**JUDICIAL MEMBER**

-Sd/-  
**(M. BALAGANESH)**  
**ACCOUNTANT MEMBER**

Dated: 27/06/2023  
A K Keot

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR  
ITAT, New Delhi