

**IN THE INCOME TAX APPELLATE TRIBUNAL**

**DELHI BENCH 'B', NEW DELHI**

**BEFORE SH. N. K. BILLAIYA, ACCOUNTANT MEMBER**

**AND**

**MS. ASTHA CHANDRA, JUDICIAL MEMBER**

**ITA No.3146& 3147/Del/2017**

**Assessment Year: 2012-13**

<b>Chandra Auto Engineers (P) Ltd. C/o Monu Monga, Advocate, 133, Lawyers Chambers, Delhi High Court, Sher Shah Road, New Delhi- 110003 PAN No.AAACC0039J</b>	<b>Vs</b>	<b>Addl. CIT Range- 6 New Delhi</b>
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

<b>Appellant</b>	<b>Sh. M.K. Giri, Advocate</b>
<b>Respondent</b>	<b>Sh. Vivek Kumar Upadhyay, Sr. DR</b>

<b>Date of Hearing</b>	<b>31.10.2023</b>
<b>Date of Pronouncement</b>	<b>31.10.2023</b>

**ORDER**

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

ITA No.3146/Del/2017 and 3147/Del/2017 are two separate appeals by the assessee preferred against two separate orders of the CIT(A)-2, New Delhi and 35, New Delhi dated 19.08.2016 and 22.11.2016 pertaining to A.Y. 2012-13 respectively.

2. Both these appeals were heard together and are disposed of by this common order for the sake of convenience and brevity.

**ITA No.3146/Del/2017**

3. The solitary grievance of the assessee is that the CIT(A) erred in confirming the addition of Rs.54.73 lacs made by the AO.

4. Briefly stated the facts of the case are that the assessee has given advances to the following persons for purchase of immovable property :-

S.No.	Name of Farmers	Amount of advance written off (Rs.)
1	Sh. Dinesh Singh	12,43,325/-
2	Sh. Kamal Singh	12,43,325/-
3	Sh. Jasmer Singh	12,43,325/-
4	Sh. Keshar Singh	12,43,325/-
5	Sh. Prem Sukh	12,43,325/-
	<b>TOTAL</b>	54,73,300/-

5. During the course of the scrutiny assessment proceedings the AO noticed that the assessee has written off the aforementioned advances. The assessee was asked to show cause why the written off should not be disallowed and added to the total income of the assessee. On receiving no plausible reply the AO proceeded with the assessment proceedings and found that the assessee has made payment of Rs.33,73,300/- through cheque of Rs.21 lacs by cash to aforementioned five persons but in absence of any documentary evidences the AO made the addition of Rs.54.75 lacs.

6. Assessee carried the matter before the CIT(A) but without any success.

7. Before us the Counsel for the assessee stated that the advances were given in A.Y.2006-07 and 2007-08 for the purchase of some land and since the sellers could not give a clean title and the deal could not be materialized, therefore, the advance given by the assessee to the five persons were forfeited by them, therefore, the assessee had to write off the same.

8. Drawing our attention to the letter dated 10.06.2016 which is placed at pages 40 and 41 of the paper book the Counsel pointed out that Rs.54.73 lacs was written off during the previous year relevant to A.Y. 2011-12 and no write off has been done during the year under consideration.

9. Knowing this fact we asked the DR the status of the write off in A.Y.2011-12 and why there should be double addition. The DR fairly stated that this aspect needs further verification.

10. Considering the facts of the case in totality we are of the considered view that this issue needs to be restored to the files of the AO. The AO is directed to verify whether the amount has already been allowed as written off in A.Y.2011-12, if not, then whether the same has been actually written off in A.Y.2011-12 and

if found correct no addition is to be made during the year under consideration.

11. However, if no write off is made in A.Y.2011-12 then also for the year under consideration the write off has to be allowed as capital loss and not revenue loss. With these directions ITA No.3146/Del/17 is allowed for statistical purpose.

12. ITA No.3147/Del/2017 relates to the levy of penalty. The AO is directed to decide this issue afresh after deciding the issues of ITA No.3146/Del/2017.

13. In the result, both the appeals are allowed for statistical purpose.

14. Decision announced in the open court in the presence of both the parties on 31.10.2023.

Sd/-  
**[ASTHA CHANDRA]**  
**JUDICIAL MEMBER**

Dated: October, 2023.  
Neha, Sr PS

Sd/-  
**[N.K. BILLAIYA]**  
**ACCOUNTANT MEMBER**