

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI "B" BENCH: NEW DELHI**

**BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER &
SHRI KUL BHARAT, JUDICIAL MEMBER**

ITA Nos.2486 to 2488/Del/2018

[Assessment Years : 2010-11, 2014-15 & 2015-16]

M/s. Chander Ballabh, H.No 102, Pocket-1, Sector-22, Dwarka, Delhi 110075, PAN- AFJPB 3376 A	vs	The ACIT, CC-30, New Delhi
APPELLANT		RESPONDENT
Appellant by	None	
Respondent by	Shri Vivek Upadhyay, Sr.DR	
Date of Hearing	15.11.2023	
Date of Pronouncement	20.11.2023	

ORDER

PER KUL BHARAT, JM :

This bunch of three appeals filed by the assessee against the different order of the Ld. CIT(A)-30, New Delhi dated 31.01.2018 for the **assessment years 2010-11, 2014-15 & 2015-16.**

2. At the time of hearing no one attending the proceedings for the last since August 2023. Even prior to that, no one attended the proceedings and removed defects as the registry has reported certain defects vide order sheet entry 10.04.2018. The assessee was required to remove defects. However, no one has attended the proceedings and removed the defects; therefore, ITA no. 2486 & 2487/Del/2018 for the assessment years 2010-11 & 2014-15 are dismissed as being defective. However, the assessee would be at liberty to remove defects and more appropriate application for restoration of appeal.

3. Now, coming to ITA No. 2488/Del/2018 the assessee has raised the following ground is as under:-

1. *The Ld. CIT(A) has erred in confirming the penalty levied by the AO without appreciating the fact the there was no concealed income.*

4. The only effective ground is against sustaining the penalty levied u/s. 271AAB of the Income Tax Act, 1961 (hereinafter referred to as “the Act”). The facts and brief are that a search & seizure action u/s. 132 of the Act was conducted on 09.10.2014 at various business and residential premises of M/s. Kuber Group of cases, including premise of M/s. Tamta Construction Company. The case of the assessee was centralized; thereafter, the assessment u/s. 143(3) was completed at income of INR 59,69,640/- and the Assessing Officer initiated penalty proceedings u/s. 271AAB on the ground that during the course of search proceedings, documents relating to details of expenditure amounting to INR 2,66,72,927/- including hidden expenses of INR 2 crore was mentioned. The director of M/s. Tamta Construction Co. P. Ltd. the assessee herein, admitted an additional income of INR 2 crore in his statement recorded u/s. 132(4) of the Act. The assessee was issued a show cause as to why penalty u/s. 271AAB should not be levied. In response thereto; the assessee filed his reply imposed the penalty of INR 95,000/- in respect of income disclosed in the return of income in the basis had there not been a search on 09.10.2014 amount of INR 95,000/- would have escaped assessment.

5. Aggrieved against this, the assessee preferred appeal before Ld.CIT(A), who confirmed the penalty, now the assessee is appeal before this Tribunal.

6. The Ld. Departmental Representatives supportive the orders of the lower authorities

7. We have heard Ld. DR perused the material available on record. We find that the Ld. CIT(A) has decided the issue by observing as under:-

7. I have examined the facts at hand. As a result of search action, certain incriminating documents) were unearthed. Based on such incriminating document, Shri Chander Ballabh Tamta, Director of M/s Tamta Construction Co. Pvt. Ltd. disclosed additional income of Rs. 1,69,80,500/-, in the hands of M/s Tamta Construction Co. Pvt. Ltd. for A.Y. 2015-16. A sum of Rs. 95,000/-, was disclosed by Shri Chander Ballabh in his individual name for A.Y. 2014-15.

The appellant has owned up this (hitherto undisclosed) income only pursuant to search. The addition made by the AO was not challenged by him in appeal. The disclosure made by the appellant does not absolve him of the wrong doing. Though the appellant has claimed that the amount was surrendered under pressure, I do not find any evidence of the same.

It has been established beyond doubt that if search u/s 132 of the Act had not been carried out, the income amounting to Rs. 95,000/-, would have remained untaxed. As such, I uphold the action of the AO in levying penalty amounting to Rs. 9,500/-, u/s 27 1AAB of the I.T. Act, 1961.

As such, penalty amounting to Rs. 9,500/-, is hereby confirmed.

8. The assessee has failed to controvert the finding of the Ld. CIT(A), therefore, we do not see any reason to interfere in the finding of the Ld. CIT(A) same is hereby affirmed the grounds raised by the appellant are dismissed. The appeal of the assessee is dismissed.

9. In the result, all the appeals of the assessee are dismissed.

Order pronounced in the open Court on 20th November, 2023.

Sd/

Sd/

(SHAMIM YAHYA)
ACCOUNTANT MEMBER

(KUL BHARAT)
JUDICIAL MEMBER

* NV/R.N, Sr. PS *

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI