

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

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

**ITA No.3301/Del/2016  
(Assessment Year: 2008-09)**

Exotica Probuild Pvt. Ltd.,  
C-691, New Friends Colony,  
New Delhi – 110 065.

vs. DCIT, Central Circle 22,  
New Delhi.

**(PAN : AABCE8117C)**

**(APPELLANT)**

**(RESPONDENT)**

ASSESSEE BY : None

REVENUE BY : Shri T. James Singson, CIT DR

Date of Hearing : 20.11.2023

Date of Order : 22.11.2023

**ORDER**

**PER SHAMIM YAHYA, ACCOUNTANT MEMBER :**

This appeal by the assessee is directed against the order of the Id. CIT (Appeals)-29, New Delhi dated 22.03.2016 for the assessment year 2008-09.

2. Grounds of appeal taken by the assessee read as under :-

“1. On the facts and circumstances of the case, the order passed by the Ld. Commissioner of Income Tax (Appeals) [CIT(A)] is bad, both in the eyes of law and on facts.

2. That the order passed by the Ld. Commissioner of Income Tax (Appeals) [CIT(A)] was wrong in facts and in law by rejecting the ground of the appellant.

3. That the Ld. CIT Appeal was wrong on facts and in law to confirm the addition of Rs.1,21,66,769/- on account of profit shown as per audited profit and loss account and ignoring the revised/computation of income on the basis of re-casted financial statement, being real and true income.

4. Without prejudice to the aforesaid grounds, each ground of appeal is independent to each other.”

3. Brief facts of the case are that a search warrant was issued and executed in the name of assessee also pursuant to search and seizure operation carried out in Triveni Group. Assessee filed return of income for the year under consideration under section 153A of the Income-tax Act, 1961 (for short ‘the Act’) at an income of Nil. Assessee filed audited balance sheet and profit & loss account as on 31.03.2008. On perusal of the same, it was found that profit before tax is shown at Rs.1,21,66,769/-. Assessee further filed recasted financial statement as on 31.03.2008 but AO rejected the same holding that it was not audited accounts and no clarification was filed in this regard. Hence, AO assessed the income on the audited accounts i.e. Rs.1,21,66,769/-.

4. Upon assessee’s appeal, ld. CIT (A) elaborately dealt with the submissions of the assessee and finally, he concluded as under :-

“Therefore, looking to the facts of this case and after considering the submissions made by the appellant and the position of law, the revised financial results of the applicant submitted in compliance to notice under section 153A, declaring total income as nil, against the original audited account, disclosing total income at Rs.1,21,66,769/- is not

found acceptable due to the elaborate discussions made in the foregoing paragraphs. The action of the AO is held to be in accordance with law and no interference is made on the action of the AO.”

5. Against the above order, assessee has filed appeal before us. Despite several notices, nobody has appeared on behalf of the assessee. Hence, we proceed to adjudicate the issue after hearing the ld. DR for the Revenue and perusing the records.

6. Upon careful consideration, we find that the assessee's audited accounts itself has shown income at Rs.1,21,66,769/-. There is no reason why the same should not be brought to ambit of taxation as found out by the authorities below. Proper reconciliation and clarification of recasted accounts were not produced by the assessee. Hence, we do not find any infirmity in the orders of authorities below. Accordingly, we uphold the same.

7. In the result, the appeal of the assessee is dismissed.

**Order pronounced in the open court on this 22<sup>nd</sup> day of November, 2023.**

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

**sd/-  
(SHAMIM YAHYA)  
ACCOUNTANT MEMBER**

**Dated the 22<sup>nd</sup> day of November, 2023  
TS**

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT (A)-29, New Delhi.
- 5.CIT(ITAT), New Delhi.

**AR, ITAT  
NEW DELHI.**