

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'F': NEW DELHI
BEFORE,
SHRI SAKTIJIT DEY, VICE PRESIDENT
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER
ITA No.1888/Del/2022
(ASSESSMENT YEAR 2016-17)**

Rahul Yadav H.No.510, Sector-31, Gurgaon, Chakkarpur B.O. Gurgaon -122002 PAN No.ADKPY7352C	Vs.	DCIT Central Circle-7 Delhi
(Appellant)		(Respondent)

Appellant by	Sh. Ved Jain, Advocate Sh. Aman Garg, CA
Respondent by	Ms. Sarita Kumari, CIT DR

Date of Hearing	16/11/2023
Date of Pronouncement	28/11/2023

ORDER

PER M. BALAGANESH, AM:

This appeal of the Assessee arises out of the order of the Learned Commissioner of Income Tax (Appeals)-30, New Delhi, [hereinafter referred to as [‘Ld. CIT(A)’] in Appeal No.10741/2015-16, dated 21/06/2022 against the order passed by Assessing Officer, Central Circle-7, Delhi (hereinafter referred to as the ‘Ld.

AO) u/s 153C/143(3) of the Income Tax Act (hereinafter referred to as 'the Act') on 24/12/2021 for the Assessment Year 2016-17.

2. The Assessee has raised the following grounds of appeal:

1. *On the facts and circumstances of the case, the order passed by the CIT(A) is bad both in the eyes of law and on facts.*

2. *On the facts and circumstances of the case, the issue of notice and proceedings initiated thereto under section 153C of the Act is bad in law, being barred by limitation and hence the assessment order passed in consequence thereto is liable to be quashed.*

3. *On the facts and circumstance of the case and law, the assessment order passed by the AO is barred by limitation.*

4. *On the facts and circumstances of the case, the learned CIT(A) has erred both on Taste and in law in rejecting the contention of the assess that the proceedings initiated under Section 153C and the assessment order passed consequence thereto are bad in law in the absence*

of any incriminating material belonging to the assessee being found during the search.

5. On the facts and circumstances of the case, the learned CIT(A) has erred both on facts and in law in dismissing the appeal preferred by the assessee without considering the fact that the impugned assessment order has been passed without issuance of statutory notices as required under the law.

6. On the facts and circumstances of the case, the learned CIT(A) has erred both on facts and in law in making addition of Rs. 16,96,420/- treating the same unexplained money u/s 68 of the Act. (1) That the above addition has been confirmed by arbitrarily rejecting the explanations and the evidences brought on record by the assessee.

7. (i) On the facts and circumstances of the case, the learned CIT(A) has erred both on facts and in law in confirming addition of Rs. 25,446 on account of commission treating the same as unexplained money u/s 69C of the Act.

(ii) That the said addition has been made at the rate of 1.5% on the above alleged amounts of unexplained money without there being any basis for the same.

8. On the facts and circumstances of the case, the learned CIT(A) has grossly erred both on facts and in law in confirming the above additions ignoring the fact that assessee's name is not appearing anywhere in any of the statements recorded during the course of search.

9. On the facts and circumstances of the case, the learned CIT(A) has erred both on facts and in law in rejecting the contention of the assessee that assessment order has been passed by AO on the basis of surmises and conjectures, without there being any adverse material on record.

10. On the facts and circumstances of the case, the learned CIT(A) has erred both on facts and in law in rejecting the contention of the assessee that the addition made by the AO is bad in law in the absence of giving opportunity of cross examination to the assessee.

11. That the appellant craves leave to add, amend or alter any of the grounds of appeal.

3. The assessee vide letter dated 09.05.2023 had filed an additional ground before us which reads as under :-

“On the facts and circumstances of the case the assessment order is null and void as the same is in violation of CBDT Circular No.19.2019 requiring mandatory DIN.”

4. We deem it fit and appropriate to address the additional ground raised by the assessee at first, as it goes to the root of the matter and being a legal issue not requiring verification of any fresh facts thereon.

5. We find that the assessment order is framed u/s. 143 (3) of the Act r.w.s. 153C dated 24.12.2021 determining total income of the assessee at Rs.24,04,625/- for the assessment year 2016-17. In the entire assessment order, the Ld. AO had not mentioned the Computer Generated Document Identification Number (DIN) which is a mandatory requirement as per the CBDT Circular No.19/2019 dated 14.08.2019.

6. For the sake of convenience, the said CBDT Circular 19/2019 dated 14.08.2019 is reproduced as under :-

Circular No. 19/ 2019

**Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes**

New Delhi, dated the 14th August, 2019

Subject: Generation/allotment Quoting of Document Identification Number in Notice Order Summons letter correspondence issued by the Income-tax Department reg.

With the launch of various e-governance Initiatives, Income-tax Department is moving ward al computerization of its work. This has led is a significant improvement in delivery if services and has also bright greater transparency in the functioning of the tax-administration. Presently, almost all notices and orders are being generated electronically on the Income Tax Business Application (TBA) platform. However, it has been brought to the notice of the Central Board of Direct Taxes (the Board) shut there have been some instances in which the notice, order, summons, letter and any correspondence (hereinafter referred to as “communication”) were found to have been issued manually, without maintaining a proper audit trail of such communication.

2. In order to prevent such instances and to maintain proper audit trail of all communication, the Board in exercise of power under section 119 of the Income-tax Act, 1961 (hereinafter referred to as "the Act"), has decided that no communication shall be issued by any income- tax authority relating to assessment, appeals, orders, statutory or otherwise, exemptions, enquiry, investigation, verification of information, penalty, prosecution, rectification, approval etc. to the assessee or any other person, on or after the 1st day of October, 2019 unless computer-generated Document Identification Number (DIN) has been allotted and is duly quoted in the body of such communication.

3. In exceptional circumstances such as,-

(i) when there are technical difficulties in generating/allotting/quoting the DIN and issuance of communication electronically; or

(ii) when communication regarding enquiry, verification etc. is required to be issued by an income-tax authority, who is outside the office. for discharging his official duties; or

(iii) when due to delay in PAN migration, PAN is lying with non-jurisdictional Assessing Officer; or

(iv) when PAN of assessee is not available and where a proceeding under the Act (other than verification under section 131 or section 133 of the Act) is sought to be initiated: or

(v) When the functionality to issue communication is not available in the system. the communication may be issued manually but only after recording reasons in writing in the file and with prior written approval of the Chief Commissioner/Director General of income-tax. In cases where manual communication is required to be issued due to delay in PAN migration, the proposal seeking approval for issuance of manual communication shall include the reason for delay in PAN migration. The communication issued under aforesaid circumstances shall state the fact that the communication is issued manually without a DIN and the date of obtaining of the written approval of the Chief Commissioner/Director General of Income-Tax for issue of manual communication in the following format-

This communication issues manually with a DIN on account of reason/reasons given in para 3(i)/3(ii)/3(iii)/3(iv)/3(v) of the Circular Nodated (strike off those which are not applicable) and with the approval of the Chief Commissioner/Director General of Income Tax vide numberdated....

4. Any communication which is not in conformity with Para-2 and Para-3 above, shall be treated as invalid and shall be deemed to have never been issued.

(emphasis supplied by us)

5. *The communication issued manually in the three situations specified in para 3-(1). (ii) or (ii) above shall have to be regularised within 15 working days of its issuance. by-*

i. uploading the manual communication on the System.

ii. compulsorily generating the DIN on the System:

iii. communicating the DIN so generated to the assessee/any other person as per electronically generated pro-forma available on the System.

6. *An intimation of issuance of manual communication for the reasons mentioned in para 3(v) shall be sent to the Principal Director General of Income-tax (Systems) within seven days from the date of its issuance.*

7. *Further, in all pending assessment proceedings, where notices were issued manually. prior to issuance of this Circular, the income-tax authorities shall identify such cases and shall upload the notices in these cases on the Systems by 31th October, 2019.*

8. *Hindi version to follow.*

(Sarita Kumari)
Director (ITA.II), CBDT

7. In view of the above, the Ld. AR pointed out that the entire assessment requires to be treated as null and void. When this fact was confronted to the Ld. CIT DR, she argued that Computer Generated Number (DIN) was indeed generated on 31.12.2021 (i.e. within 7 days from the date of the passing of the order) and the

same is communicated to the assessee herein in an electronic mode. Hence, there is no grievance for the assessee.

8. We are unable to apprehend ourselves to accept this argument of the Ld. CIT DR as the CBDT circular referred (supra) mandates that no communication shall be issued by any income tax authority relating to assessment, appeals, order etc on or after 01.10.2019 unless a Computer Generated Document Identification Number(DIN) has been allotted and is duly quoted in the body of such communication. Admittedly in the instant case, there is no mention of computer generated number (DIN) in the body of the assessment order framed on 24.12.2021 which has been served on the assessee. We further find that the coordinate Bench of this Tribunal in the case of Sunder Lal Bajaj HUF Vs. DCIT in ITA No.3009/Del/2022 dated 15.11.2023 by following the decision of the Hon'ble Jurisdictional High Court in the case of Brandix Mauritius Holdings Pvt. Ltd. 2023 (4) TMI 579 dated 20.03.2023 had cancelled the assessment as invalid for not mentioning computer generated (DIN) number in the body of the order. Similar view was also taken by the Hon'ble Bombay High Court in Ashok

Commercial Enterprises Vs. ACIT in WP Numbers 2595 of 2021 and others dated 04.09.2023 reported in 2023 (9) TMI 335 and Hon'ble Calcutta High Court in the case of PCIT Vs. TATA Medical Centre Trust, reported in 2023 (9) TMI 1324 dated 26.09.2023.

9. Further we find that the Ld. CIT(DR) before us was not able to point out that the case falls under any of the exceptions provided in para-3 of the said circular 19/2019 dated 14.08.2019. Accordingly the additional ground raised by the assessee deserves to be allowed in the instant case and in view of the same, adjudication of the other grounds (i.e. original grounds) becomes academic in nature and they are left open.

10. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 28.11.2023.

Sd/-
(SAKTIJIT DEY)
VICE PRESIDENT
Dated: 28/11/2023
Neha, Sr. P.S.

Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER