

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

**BEFORE,  
SHRI N. K. BILLAIYA, ACCOUNTANT MEMBER  
AND  
SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER  
ITA No. 2601/Del/2022, A.Y.2015-16**

Sh. Ram Narayan Bajaj RNB House, 1 Shivaji Enclave, Main Road, Rajouri Garden Near Raja Garden, Delhi-110027 PAN No. ACPPB8385E	Vs.	DCIT, Central circle-32, Delhi
<b>(Appellant)</b>		<b>(Respondent)</b>

Appellant by	Sh. Ved Jain, Adv. and Ms. Supriya Mehta, CA
Respondent by	Sh. Prakash Nath Barnwal, CIT-DR

Date of Hearing	11/01/2024
Date of Pronouncement	30/01/2024

**ORDER**

**PER YOGESH KUMAR U.S., JM:**

This appeal filed by the Assessee against the order of Learned Commissioner of Income Tax (Appeals)-30, New Delhi, ["Ld. CIT(A)", for short], dated 19/09/2022 for Assessment Year 2015-16. The following grounds of appeal taken by the assessee:

- "1. On the facts and circumstances of the case, the order passed by the learned Commissioner of Income Tax (Appeals) [CIT (A)] is bad both in the eye of law and on facts*

2. *On the facts and circumstances of the case, learned CIT (A) has erred, both on facts and in law, in rejecting the contention of assessee that the assessment order passed is bad in the eyes of law as the same was passed in violation of circular no. 19/2019 issued by CBDT which mandates that no order shall be passed without there being Valid Document Identification Number (DIN).*
3. *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 assessment order passed under section 153A r.w.s. 143(3) is bad and liable to be quashed as the same has been framed consequent to a search which itself was unlawful and invalid in the eyes of law.*
4. *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 assessment order passed under section 153A r.w.s. 143(3) is illegal and bad in law as the same has been passed without having valid jurisdiction.*
5. *On the facts and circumstances of the case, learned CIT (A) has erred, both on facts and in law, in rejecting the contention of assessee that addition in order passed u/s 153A r.w.s. 143(3) of the Act has been made, without any incriminating material having been found during the course of search.*
6. *On the facts and circumstances of the case, learned CIT (A) has erred, both on facts and in law, in rejecting the*

*contention of assessee that the proceedings initiated under section 153A against the appellant and the assessment framed under section 153A r.w.s 143(3) are in violation of mandatory provisions of Section 153D of the Act and as such the same is bad in eyes of law. The purported approval u/s 153D of the Act is illegal, bad in law and also without any application of mind.*

*7. On the facts and circumstances of the case, learned CIT(A) has erred, both on facts and in law, in rejecting the contention of assessee that assessment order was passed relying upon the material and evidences without providing the copies of same to the appellant and without providing proper and adequate opportunity to the appellant to rebut the same.*

*8. 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 proceedings initiated under section 153A against the appellant and the assessment framed under section 153A r.w.s. 143(3) are in violation of the statutory conditions of the Act and the procedure prescribed under the law and as such the same is bad in the eye of law and liable to be quashed.*

*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 notice issued u/s 142(1) of the Act is bad in law as no assessment proceedings were pending on the date on which such notice was issued.*

*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 notice issued under section 143(2) is bad in law.*

*11. On the facts and circumstances of the case, the learned CIT (A) has erred, both on facts and in law, in rejecting the specific objection raised by the appellant before AO under section 124 of the Act.*

*12. (i) On the facts and circumstances of the case, the learned CIT (A) has erred in confirming the addition of Rs. 7,52,173/- u/s 68 of the Act on account of undisclosed investment.*

*(ii) That the above addition has been confirmed ignoring the detailed submissions provided by the assessee.*

*13. On the facts and circumstances of the case, the learned CIT (A) has erred in facts and in law in confirming interest charged u/s 234A, 234B, and 234C of the Act.*

*14. On the facts and circumstances of the case, the learned CIT (A) has erred in facts and in law in confirming the action of Assessing Officer in determining tax liability as per section 115BBE of the Act.*

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

2. The Ld. Counsel for the assessee submitted, the search was conducted on Bajaj Group and its associates including the assessee on 20/04/2017, there was no incriminating material/document was found as is evident from the Punchnama and the assessment

order came to be passed on 27/12/2019 by making additions not based on any incriminating material found during the course of search. Therefore, submitted that addition made by the AO which has been confirmed by the Ld. CIT(A) requires to be deleted in view of the settled position of law and the ratio laid down by the Hon'ble Supreme Court in the case of *PCIT vs. Abhisar Buildwell Pvt. Ltd. [2023] (4) TMI 1056 (SC)*.

3. Per contra, the Ld. DR though relied on the orders of the lower authorities did not dispute the fact that the addition were made by the A.O. not based on the incriminating material unearth during the course of search.

4. We have heard the parties and perused the materials available on record and considering the submissions made by the parties as the additions were made in the absence of any incriminating materials found during the search, by following the ratio laid down in the case of case of Abhisar Buildwell Pvt. Ltd. (supra), we delete the additions made by the A.O. which was confirmed by the Ld. CIT(A).

5. In the result, the appeal filed by the assessee is allowed.

Order pronounced in open Court on 30<sup>th</sup> January, 2024.

**Sd/-**

**(N. K. BILLAIYA)**  
**ACCOUNTANT MEMBER**

Dated: 30/01/2024

*Pk/R.N, Sr.ps*

Copy forwarded to:

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

**Sd/-**

**(YOGESH KUMAR U.S.)**  
**JUDICIAL MEMBER**

ASSISTANT REGISTRAR  
ITAT, NEW DELHI