

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

**BEFORE,
DR. B.R.R.KUMAR, ACCOUNTANT MEMBER
AND
SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER**

**ITA No.1357/Del/2022
(ASSESSMENT YEAR-2018-19)**

DCIT Central Circle-20 New Delhi	Vs.	Yashu Mittal 443, Deepali Enclave Pitam Pura, North West Delhi, Delhi-110 034 PAN-BIKPM 8170J
(Appellant)		(Respondent)

Assessee by	Sh. Amol Sinha, Advocate
Respondent by	Ms. Sapna Bhatia, CIT-DR

Date of Hearing	08/02/2024
Date of Pronouncement	15/02/2024

ORDER

PER YOGESH KUMAR U.S., JM:

This appeal filed by the Revenue against the order of Learned Commissioner of Income Tax (Appeals)-27, New Delhi, ["Ld. CIT(A)", for short], dated 14/03/2022 for Assessment Year 2018-19. The following grounds of appeal taken by the assessee:

"1. The Ld. CIT(A) has erred on facts and in law in deleting the addition of Rs.2,70,75,540/- on account of unexplained money u/s 69 of the Act without considering the fact that benefit of "the amount explained in the partial reconciliation submitted by the assessee in appellate proceedings" has already been given to the assessee at the time of assessment.

2. *The Ld. CIT(A) has erred on facts and in law by not appreciating the fact that the reconciliation provided by the assessee was not exhaustive but only partial, which was duly considered by the AO after reconciling entries before coming to the inference that Rs.2,70,75,540/- remained unexplained out of total entries amounting to Rs.8,20,29,716/-.*

3. *(a) The Order of the Ld. Commissioner of Income Tax (Appeals) is erroneous and not tenable in law and on facts.*

(b) The appellant craves to add, alter or amend any/all of the grounds of appeal before or during the course of the hearing of the appeal.”

2. The brief facts of the case are that a search & seizure and survey operation u/s 132/133A of the Income Tax Act, 1961 was conducted on 19/12/2017 in the case of M/s PAN Group of cases. The assessee's residential premises were also covered u/s 132(1) of the Income Tax Act. An assessment came to be passed u/s 143(3) r.w.s 153A of the Act on 30/12/2019 by making addition of Rs.2,70,75,540/- u/s 69A r.w.s 115BBE of the Act.

3. Aggrieved by the assessment order dated 30/12/2019, the assessee preferred an appeal before the Ld. CIT(A). The Ld. CIT(A) vide order dated 14/03/2022, allowed the appeal filed by the assessee by deleting the addition made by the AO.

4. Aggrieved by the order of the Ld. CIT(A) dated 14/03/2022, the Department of Revenue preferred the present appeal on the grounds mentioned above.

5. The Ld. DR submitted that the Ld. CIT(A) has erred in fact and in law in deleting the addition of Rs.2,70,75,540/- on account of unexplained money u/s 69A of the Act without considering the fact that benefit of “the amount explained in the partial reconciliation submitted by the assessee in appellant proceedings” has already been given to the Assessee at the time of assessment. Further submitted that the Ld. CIT(A) has also ignored the fact that the reconciliation provided by the assessee was not exhaustive but only partial which was already considered by the AO. Therefore, submitted that the order of the Ld. CIT(A) deserves to be deleted.

6. Per contra, the Ld. AR submitted that the entire reconciliation along with Bank Statements were produced by the assessee which have been verified by the Ld. CIT(A) and found to be matching with the Bank Statement for the relevant period and found that entire entries on the basis of which addition of Rs.2,70,75,540/- was

made by the AO also verified, which requires no interference at the hands of the Tribunal.

7. We have heard the parties and perused the materials available on record. During the course of search proceedings, the image from I-phone of the assessee were imaged, which demonstrated the transactions of the assessee with various parties totaling to Rs.8,20,29,716/-. In response to notices issued by the Assessing Officer, the assessee provided reconciliation ledger and bank statement. As per the Ld. AO, the reconciliation has been provided only 3 days prior to the date on which the matter would become barred by limitation. As per the AO, the assessee has also given excuses such as “cheque not presented”, whereas in his explanation, the assessee has shown the same transaction in the Bank Statement or in the ledger for explaining the different times found in different images and just trying to misguide the reconciliation, thus, an amount of Rs.2,70,75,540/- had been added by the A.O. to the income of the assessee u/s 69A r.w.s. 115BBE of the Act.

8. In the appeal before the CIT(A), the assessee contended that the entries are pertaining to M/s Parmanand and Sons Food Products Private Limited. The assessee has received the details of customers from whom he has to co-ordinate for recovery of dues. The names of such customers mentioned in the images are used by the Assessee for coordinating with them. At some occasions the customers paid amount in parts, therefore, the cheques of the said amount was not presented and on some occasions cheque was presented after few days from the date mentioned in image. To ascertain the veracity of the contention of the assessee, the assessee was asked to file the reconciliation along with bank statement by the CIT(A). After verifying the entire reconciliation statement and also the bank statement of M/s Parmanand and Sons Food Products Pvt. Ltd., the Ld. CIT(A) observed that all the entries amounting to Rs.8,20,29,716/- have been verified and found to be matching with the bank statement for the relevant period. As the whole amount has been verified, the Ld. CIT(A) presumed that entries on the basis of which addition of Rs.2,70,75,540/- was made by the Assessing Officer are also

verifiable. The said finding of the Ld. CIT(A) on facts was based on the material available on record and in the absence of any contrary materials brought in our notice by the Department of Revenue, we find no reason to interfere with the conclusion of the Ld. CIT(A). Accordingly, we find no merit in the grounds of the appeal of the Revenue.

9. In the result, the appeal filed by the Revenue is dismissed.

Order pronounced in open Court on 15th February, 2024.

Sd/-

(DR. B.R.R.KUMAR)
ACCOUNTANT MEMBER

Dated: 15/02/2024

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

