

**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.63/Del/2021
(ASSESSMENT YEAR-2012-13)

ITA No.64/Del/2021
(ASSESSMENT YEAR-2013-14)

ITA No.65/Del/2021
(ASSESSMENT YEAR-2014-15)

Sarika Sachdeva 36, Godavari Apartments Alaknanda, Near Yamuna Apartment, Kalkaji New Delhi-110 019 PAN-AUAPS 0438C	Vs.	ACIT Central Circle-01 New Delhi-110 055
(Appellant)		(Respondent)

Appellant by	Sh. Gaurav Jain, Adv., Sh. Rahul Prabhakar, Adv. & Ms. Sweta Bansal, CA
Respondent by	Ms. Sapna Bhatia, CIT-DR

Date of Hearing	14/02/2024
Date of Pronouncement	27/02/2024

ORDER

PER YOGESH KUMAR U.S., JM:

All these appeals filed by the Assessee are against the order of Learned Commissioner of Income Tax (Appeals)-23, New Delhi ["Ld. CIT(A)", for short], dated 15/01/2021, 28/08/2020 & 28/08/2020, for Assessment Years 2012-13 to 2014-15 respectively.

2. The following grounds taken in these appeals are as under:

ITA No.63/Del/2021

“1. The Order passed by the Ld CIT (Appeals) is opposed to law and facts of the case.

2. That in the facts of the case and as per law, the learned CIT (A) erred in upholding the additions made by the Assessing Officer in the returned income during the course of assessment u/s 153A read with section 143(3) of the Act, which are not based on any incriminating material found during the course of search on the appellant, and contrary to the ratio of various judicial precedents which have held that the scope of assessment which are not pending at the time of conducting of search u/s 153A of the Act, encompasses additions/ disallowance, based on incriminating material found during the course of search only

3. That the Ld. CIT (A) has erred in the facts and in law in upholding the addition made by the Ld. AO to the extent of Rs 64,680/- on account of deemed rental income.

4. The Ld. CIT(A) has erred in the facts and in law in upholding the Rs.2 addition made by the Ld. AO to the extent of Rs 9,14,432/- on account of unexplained money in the form of cash found to be deposited in the bank account of the Appellant/Assessee u/s 69A of the Income Tax Act, 1961.

5. That the appellant craves leave to add, alter, amend and/or withdraw any ground or grounds of appeal either before or during the course of hearing of the appeal.”

ITA No.64/Del/2021

“1. The Order passed by the Ld. CIT (Appeals) is opposed to law and facts of the case

2. That in the facts of the case and as per law, the learned CIT (A) erred in upholding the additions made by the Assessing Officer in the returned income during the course of assessment u/s 153A read with section 143(3) of the Act, which are not based on any

incriminating material found during the course of search on the appellant, and contrary to the ratio of various judicial precedents which have held that the scope of assessment which are not pending at the time of conducting of search u/s 153A of the Act, encompasses additions/ disallowance, based on incriminating material found during the course of search only.

3. That the Ld. CIT (A) has erred in the facts and in law in upholding the addition made by the Ld. AO to the extent of Rs.71,400/- on account of deemed rental income.

4. That the appellant craves leave to add, alter, amend and/or withdraw any ground or grounds of appeal either before or during the course of hearing of the appeal.

That because of the COVID pandemic, the appeal could not be filed within the limitation period prescribed in the Income Tax Act. However, the Appellant understands that the Hon'ble Supreme Court's Order dated 23.03 2020 in Suo Moto Writ Petition No.03/2020 Extending Limitation due to COVID-19 is still operative and therefore no separate application for condonation of delay is being filed with the present appeal.”

ITA No.65/Del/2021

“1. The Order paved by the Ld CTT (Appeals) is opposed to land facts of the case.

2. That in the facts of the case and as per lam, the learned CTT (A) red in upholding the addition made by the Assessing Officer in the returned income during the course of assessment is 151A read with section 1433) of the Act, which are not based on any incriminating material found during the course of search on the appellant, and contrary to the ratio of various judicial precedents which have held that the scope of assessment which are not pending at the time of conducting of search wis 153A of the Act, encompasses additions disallowance, based on incriminating material fond during the course of search only.

3. That the Ld CTT (A) has erred in the facts and in law in upholding the Rs. addition made by the LAO to the extent of Rs. 1,49,100-on account (Approx of deemed rental income

4. That the appellant craves to leave to add, alter, amend and/or withdraw any ground or grounds of appeal either before or during the course of hearing of the appeal.

That because of the COVID pandemic, the appeal could not be filled within the limitation period prescribed in the Income Tax Act. However, the Appellant understands that the Hon'ble Supreme Court's Order dated 23.01.2020 Suo Moto Writ Petition No.03/2020 Extending Limitation due to COVI-19 is still operative and therefore no separate application for condonation of delay is being filed with the present appeal.”

3. The Ld. Counsel for the Assessee submitted that the Ld. CIT(A) erred in upholding the addition made by the A.O. u/s 153A read with Section 143(3) of the Act wherein the additions are based on any incriminating material found during the course of search and by relying the ratio laid down by the Hon'ble supreme Court in the case of *Abhisar Build Well* (2023) 149 Taxman.com 399 (SC) sought for deletions of the additions by allowing the above appeals filed by the Assessee.

4. Per contra, the Ld. Departmental Representative relied on the order of the Lower Authorities, but could not dispute the claim made by the Ld. AR that additions have been made in the absence of any incriminating material found during the course of the search.

5. We have heard the parties perused the material. From the perusal of the assessment order, it is found that no incriminating material was found during the course of search and no assessment proceedings were pending at the time of search. The additions have been made on account of cash deposits in the bank account, therefore, following the ratio laid down the Hon'ble Supreme Court in the case of *Abhisar Build Well* (supra) the additions made by the A.O. for the Assessment Year 2012-13 to 2014-15 are hereby deleted.

6. In the result, Appeal filed by the Assessee in ITA Nos. 63/Del/2021, 64/Del/2021 and 65/Del/2021 for A.Y 2012- 13 to 2014-15 are allowed.

Order pronounced in open Court on 27th February, 2024

Sd/-

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

Dated: 27/02/2024

Pk/R.N Sr.ps

Sd/-

(YOGESH KUMAR U.S.)
JUDICIAL MEMBER

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI

