

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

**BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER AND  
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

**ITA No.2259/DEL/2023  
[Assessment Year: 2019-20]**

Assistant Commissioner of Income Tax, Central Circle, Room No.229, 2 <sup>nd</sup> Floor, CGO Complex-1, Hapur Chungi, Ghaziabad, Uttar Pradesh-201002	Vs	Daya Rani, R-2/83, Raj Nagar, Ghaziabad, Uttar Pradesh-201001
		<b>PAN: ABRPR5424R</b>
Revenue		Assessee

Revenue by	Shri Vivek Kumar Upadhyay, Sr.DR
Assessee by	Sh. Satyajeet Goel, CA

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Assessee by	Sh. Satyajeet Goel, CA

<b>Date of Hearing</b>	<b>14.02.2024</b>
<b>Date of Pronouncement</b>	<b>04.03.2024</b>

**ORDER**

**PER AMIT SHUKLA, JM,**

The aforesaid appeal has been filed by the Revenue against the order dated 18.05.2023 passed by learned Commissioner of Income Tax (Appeals)-3, Noida, for the quantum of assessment passed under section 153A/143(3) of the Income Tax Act, 1961 (hereinafter 'the Act') for Assessment Year 2019-20.

2. The Department has taken following grounds:-

*1. On facts and circumstances of the case and in law, the Ld. CIT(A) has erred in deleting addition of Rs. 89,70,600/- made by the AO on account of unexplained addition towards capital of her concern u/s 68 of I.T. Act, 1961 without considering the fact as elaborated in the assessment order.*

*2. On facts and circumstances of the case and in law, the Ld. CIT(A) has erred in relying the judgment of Apex Court in the case of PCIT Central-3 vs. Abhisar Buildwell Pvt. Ltd and other in the Civil Appeal No. 6580 of 2021 dated 24.04.2023, whereas the Apex court in the case of PCIT Central-3 vs. Abhisar Buildwell Pvt. Ltd has discussed the case of M/s Kesarwani Zarda Bhandar Sahson, Allahabad wherein it has been observed that the AO has the power to reassess the return of assessee not only for the undisclosed income which was found during the search operation but also with regard to material that was available at the time of original assessment.*

3. The brief facts are that, a search and seizure action under section 132 was conducted on 30.07.2018 at the premises of M/s PS Enterprises and other group of cases. The return of income was filed on 31.10.2019, declaring Rs.18,65,140/-. The assessee is a proprietor in M/s Parasnath Iron Traders and deriving income from business or profession, house property and income from other sources. The learned Assessing Officer, on perusal of the balance sheet of M/s Parasnath Iron Traders noted that the assessee has made addition towards capital of Rs.89,70,600/-. In response to show-cause notice, the assessee stated out of Rs.89,70,600/- sum of Rs.74,70,600/- is a contra entry being balance of National Steel Suppliers appearing in the personal balance sheet of the assessee which was transferred through book entry and remaining has been paid in cash out of opening cash balance with her. In support of

this, the assessee filed a ledger account of National Steel Suppliers in the books of the assessee. However, learned Assessing Officer rejected the assessee's submission, stating that previous balance sheet of the assessee, no such balance of M/s National Steel Suppliers was appearing. Also, regarding cash book, no source of cash balance has been furnished. Finally, learned Assessing Officer added the entire contribution/addition made in the capital of M/s Parasnath Iron Traders of Rs.89,70,600/-.

4. Before the learned CIT(A), the assessee as an evidence to explain the source, furnished a copy of personal balance sheets of the assessee for Financial Years 2017-18 and 2018-19 and also balance sheet of M/s Parasnath Iron Traders for Assessment Years 2017-18 and 2018-19. The assessee also furnished the ledger account of her in the books of M/s National Steel Suppliers and a certificate of Chartered Accountant at amount of Rs.74,70,600/- who has certified that the capital account of M/s Parasnath Iron Traders was by way of transfer entry in the books of M/s Parasnath Iron Traders, which was the amount receivables from M/s National Steel Suppliers from personal book of Smt. Daya Rani to the books of concern M/s Parasnath Iron Traders. Further, cash book and ledger account of the assessee in the books of M/s Parasnath Iron Traders and ledger account of proprietary concern was furnished to clarify that Rs.15,00,000/- was transferred from a personal book of

account of the proprietary concern. A certificate of Chartered Accountant and ledger account of the assessee in books of M/s Parasnath Iron Traders has been incorporated in the appellate order. The assessee also contended that this addition is not based on any incriminating document from the search but from balance sheet and in support relied upon the decision of the Hon'ble Supreme Court in the case of PCIT vs. Abhisar Buildwell Pvt. Ltd. in Civil Appeal No.6580/2021, judgment dated 24.04.2023.

5. The learned CIT (A) after considering the entire facts and material available on record, deleted the said addition by observing as under:-

**“6.8 From the facts of the case it is clear that capital enhancement of Rs. 89,70,600/- in the balance sheet of M/s. Paras Nath Iron Traders was due to two factors (i) Rs. 74,70,600/- which was credited to capital amount of M/s. Paras Nath Iron Traders by transfer entry on account of amount receivable from M/s. National Steel Suppliers from the personal books of accounts of Smt. Daya Rani and (ii) Rs. 15,00,000/- which was introduced out of cash available with Smt. Daya Rani. However Ld. AO could not appreciate these book entries in right perspective and the same were considered as unexplained. And provisions of section 68 of IT Act were invoked. Looking to the facts and circumstances of the case and latest decision of Hon'ble Supreme Court in case of PCIT Central-3 vs Abhisar Buildwell Pvt Ltd. and others in the Civil Appeal no. 6580 of 2021 and connected appeals filed by the Revenue as well as various other assesseees in the judgment delivered on 24.04.2023 (Hon'ble Judges Sh. M R Shah and Sh.Sudhanshu Dhulia), I am of the opinion that this addition of Rs. 89,70,600/- made u/s 68 of IT Act cannot be sustained. Hence the same is deleted and relief is allowed to the appellant. All the concerned grounds of appeal are adjudicated accordingly.”**

6. After hearing both the parties and perused the relevant material placed on record, we find that to explain the source of capital enhancement of Rs.89,70,600/- in the balance sheet of M/s Parasnath Iron Trader was stated to be through transfer entry on account of amount receivable from M/s National Steel Suppliers in the personal books of account of the Smt. Daya Rani of Rs.74,70,600/-. In support of this, the assessee had filed a certificate of Chartered Accountant, who has certified that as on 31.03.2019, an amount of Rs.74,70,600/- was credited to the capital account of M/s Parasnath Iron Traders, proprietor Smt. Daya Rani by transfer entry. Once, the assessee has produced the ledger account and books of M/s National Steel Suppliers and certificate of Chartered Accountant as transfer entry of the said amount receivable from them to the proprietary concern, we do not find any reason as to why such amount remained unexplained.

7. Secondly, in so far as, cash of Rs.15 lakhs, the assessee had duly shown from her cash book that same was out of cash balance with her, which is also from personal books duly declared. Thus, we do not find any reason to deviate from the finding of the learned CIT

(A) in deleting the addition. Thus, order of the learned CIT (A) is confirmed and the grounds raised by Revenue are dismissed.

8. In the result, the appeal of the Revenue is dismissed.

Order pronounced in the open court on 04<sup>th</sup> March, 2024

**Sd/-**  
**[M. BALAGANESH]**  
**ACCOUNTANT MEMBER**  
Dated: 04.03.2024  
*MSK*

**Sd/-**  
**[AMIT SHUKLA]**  
**JUDICIAL MEMBER**

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,  
ITAT, New Delhi