

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "C" DELHI**

**BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER  
AND  
SHRI SUDHIR PAREEK, JUDICIAL MEMBER**

ITA No.314 /Del/2019  
Assessment Year 2013-14

<b>M/s. Jacaranda Capital Ltd.</b> 412-C, Usha Kiran building Commercial Complex, Azadpur Delhi	Vs.	<b>Dy. Commissioner of Income Tax</b> Central Circle-25 New Delhi
TAN/PAN: AACCCJ1583G		
(Appellant)		(Respondent)

Applicant by:	None		
Respondent by:	Mr. Waseem Arshad, CIT (DR)		
Date of hearing:	25	04	2024
Date of pronouncement:	17	05	2024

**ORDER**

**PER PRADIP KUMAR KEDIA - A.M.:**

The captioned appeal has been filed by the assessee against the order of the Commissioner of Income Tax (Appeals)-XXIX, New Delhi ('CIT(A)' in short) dated 01.05.2018 arising from the assessment order dated 29.12.2017 passed by the Assessing Officer (AO) under Section 143(3) r.w. Section 153C of the Income Tax Act, 1961 (the Act) concerning AY 2013-14.

2. As per the captioned appeal, the assessee has challenged the first appellate order wherein addition of Rs.6 lakh was confirmed towards unexplained transfer of such amount by the assessee to M/s. Gaurav Holding Pvt. Ltd. The CIT(A) upheld the additions made by the AO under Section 153C r.w. Section 143(3) of the Act.

3. The appeal filed by the assessee is belated and the assessee seeks condonation of delay of about 201 days in terms of application dated

16.01.2019. On perusal of the application, it is noticed that a case has been made out on behalf of the assessee that the first appellate order was handed over to its counsel for preparation and filing of appeal. However, the old counsel failed to file the appeal in time and the delay occurred due to change of counsel. There does not appear to be any serious prejudice to revenue by such delay. The delay is condoned and the matter is proceeded on merits.

4. As none has appeared for the assessee, the matter is proceeded *ex-parte* in the light of material available on record and submissions made on behalf of Revenue.

5. On perusal of the first appellate order and assessment order, few facts emanate which are relevant. The assessee before the lower authorities have questioned the jurisdiction assumed under Section 153C on the grounds of absence of any incriminating material. Consequently, the assessee submits before revenue authorities that how the transfer of money from the bank account to another bank account of other party resulting in reduction of capital can lead to addition on account of alleged accommodation entry in the nature of unexplained transfer. No cross-examination of the other side has been afforded either for alleged accommodation entries.

6. It is observed that a search and seizure operation under Section 132 of the Act was carried out on Sajan Kumar Jain and Shri Pradeep Kumar Jindal Group of cases on 18.11.2015. While examining the seized document of the searched person, the AO came across certain documents pertaining to the assessee herein and accordingly proceedings under Section 153C were set in motion. On perusal of the text of the seized document, it is noticed that the assessee has transferred Rs.6 lakh on 10.07.2012 to M/s. Gaurav Holdings Pvt. Ltd. Such transaction, by itself, cannot be said to be of incriminating nature as it is not a case of receipt of money but rather a transfer of money itself. Besides, nowhere it is alleged by the lower authorities that such transaction has not been

recorded in the books. Mere occurrence of the transactions with the person searched do not *ipso facto* trigger provisions of Section 153C in the absence of necessary ingredients. Documents found should show some clandestine transactions of incriminating nature. Such fact is not discernible. Mere transfer of amount by the assessee to other entity cannot be equated with any incriminating transaction / document *per se*. This ground alone is sufficient to reverse the action of the lower authorities. Both AO as well as the CIT(A) have failed to appreciate such discernible fact. The source of such transfer naturally comes from the bank balances as such transaction has been carried through banking channel. The credit appearing in bank is not in question. We thus see no reasonable ground in the action of the lower authorities. Hence, the order of the CIT(A) is set aside and AO is directed to reverse the additions made on this score.

7. In the result, the appeal of the assessee is allowed *ex-parte*.

**Order pronounced in the open Court on 17 May, 2024.**

Sd/-  
[SUDHIR PAREEK]  
JUDICIAL MEMBER

Sd/-  
[PRADIP KUMAR KEDIA]  
ACCOUNTANT MEMBER

DATED: May, 2024  
*Prabhat*