

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "C": NEW DELHI
BEFORE SHRI C. N. PRASAD, JUDICIAL MEMBER
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

**ITA No. 166/Del/2022
(Assessment Year: 2017-18)**

DCIT,
Central Circle-05,
New Delhi

(Appellant)

PAN:AADCK1912D

Vs. Karina Airlines International Ltd,
No. 11, Gali No. 5, Block A, West
karawal Nagar, New Delhi

(Respondent)

Assessee by :

Revenue by:

Shri S. K. Chaturvedi, CA

Mr. Waseem Arshad, CIT DR

Date of Hearing

18/03/2024

Date of pronouncement

22/05/2024

O R D E R

PER M. BALAGANESH, A. M.:

1. The appeal in ITA No.166/Del/2022 for AY 2017-18, arises out of the order of the Commissioner of Income Tax (Appeals)-24, New Delhi [hereinafter referred to as 'ld. CIT(A)', in short] in Appeal No. 24/10323/2019-20 dated 03.03.2021 against the order of assessment passed u/s 153C r.w.s. 144 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 31.12.2019 by the Assessing Officer, ACIT, Central Circle-05, New Delhi (hereinafter referred to as 'ld. AO').

2. The revenue has raised the following grounds of appeal before us:-

"(1) The Ld. CIT(A) erred in quashing the assessment order passed u/s 153C r.w.s. 144 of the Act only on the basis that satisfaction was not recorded before issuing the notice u/s 153C of the Act. The Ld. CIT(A) ignored the fact that was submitted in remand report that as per section 153C(2) of the Act, recording of satisfaction was not mandatory in the case of assessee.

(2) The Ld. CIT(A) has erred in accepting the additional ground of the assessee whereas it was requested in the remand report that additional ground submitted

by the assessee is not acceptable. The assessee was not responded to the notices issued during the course of assessment proceedings.

(3) The Ld. CIT(A) has erred in deleting the addition of Rs.98,87,100/- made u/s 68 of the Act on account of unexplained cash deposit made by the assessee without looking the merit and facts of the case. The addition was made on the basis of material and information found during the course of search operation conducted in the case of searched person.

(4) The appellant craves leave to add, alter, amend or withdraw any ground(s) of the appeal raised above at the time of hearing."

3. We have heard the rival submissions and perused the material available on record. A search and seizure of action u/s 132 of the Act stood initiated on 07.04.2016 in the case of Sri Harvansh Chawla. During the course of search, documents and materials containing information having a bearing on taxable income of assessee herein were seized. Accordingly, the case of the assessee was centralised to Central Circle u/s 127 of the Act order dated 07.12.2018. As per the provisions of Section 153C of the Act, satisfaction note prepared by the Id AO of the searched person i.e. Harvansh Chawla was recorded on 29.03.2019 and seized materials were handed over to the Id AO of the assessee. The Id AO in para 3 of his order had stated that after perusing the information available on record and documents/ information received from the Id AO of the searched person, satisfaction was recorded on 15.05.2019 in the case of the assessee herein. Thereafter, notice u/s 153C of the Act was issued on 09.11.2019. The assessment u/s 153C read with section 144 of the Act was completed on 31.12.2019, determining total income of the assessee at ₹98,87,100/- wherein the cash deposits made by the assessee in the bank account were treated as unexplained credits u/s 68 and taxed at the prescribed rate u/s 115BBE of the Act.

4. The assessee raised preliminary objection before the Id CIT(A) that no satisfaction was indeed recorded in terms of section 153C of the Act for the year under consideration by the Id AO before assuming jurisdiction u/s 153C of the Act and accordingly, the entire proceedings u/s 153C of the Act would become void abinitio. The assessee submitted before the Id CIT(A) that satisfaction in terms of section 153C of the Act was recorded only for Assessment Years 2011–

12 to 2016-17 and not for AY 2017-18 i.e the year under consideration. The Id CIT(A) directed the Id AO to furnish copy of satisfaction recorded for initiation of proceedings u/s 153C of the Act for AY 2017-18, which were not furnished by the Id AO. Thereafter, the assessment records were examined by the Id CIT(A) in the presence of the Id AO on 02.03.2021 and found that no satisfaction u/s 153C of the Act had been recorded for AY 2017-18. Thereafter, the Id CIT(A) relied on the CBDT Circular No. 24/2015 dated 31.12.2015 and the decision of the Hon'ble Supreme Court in the case of CIT Vs. Calcutta Knitwears Ltd reported in 362 ITR 673 (SC) wherein it was held that it is mandatory to record satisfaction before issue of notice u/s 153C of the Act and quashed the search assessment proceedings u/s 153C of the Act after giving categorical finding that satisfaction note u/s 153C of the Act was not recorded at all for AY 2017-18. This categorical finding recorded by the Id CIT(A) could not be controverted by the revenue before us by bringing contrary evidence. Since the assessment has been quashed by the Id CIT(A) by relying on the CBDT Circular No. 24/2015 dated 31.12.2015 and decision of the Hon'ble Supreme Court referred supra and in view of the undisputed fact that no satisfaction u/s 153C of the Act was recorded for AY 2017-18, we find no infirmity in the order of the Id CIT(A) and accordingly, dismiss the grounds raised by the revenue.

5. In the result appeal of the revenue is dismissed

Order pronounced in the open court on 22/05/2024.

-Sd/-
(C. N. PRASAD)
JUDICIAL MEMBER

-Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated: 05/05/2024
A K Keot

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi