

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

Before Dr. B. R. R. Kumar, Accountant Member,

Sh. Anubhav Sharma, Judicial Member

ITA No. 1572/Del/2023 : Asstt. Year: 2018-19

ITA No. 1605/Del/2023 : Asstt. Year: 2019-20

Kushal Singh, E-9, Beta-1, Greater Noida, Uttar Pradesh-201308 (APPELLANT)	Vs	DCIT, Central Circle-3, New Delhi-110055 (RESPONDENT)
PAN No. AOVPK3108E		

**Assessee by : Sh. Jasmeet Singh, Adv. &
Sh. Pushendra S. Bhadoriya, Adv.
Revenue by : Ms. Monika Dhami, CIT-DR**

Date of Hearing: 19.06.2024

Date of Pronouncement: 21.06.2024

ORDER

Per Dr. B. R. R. Kumar, Accountant Member:

The present appeals have been filed by the assessee against the orders of Id. CIT(A)-23, New Delhi dated 22.03.2023 and 27.03.2023.

2. Since, the issue involved in both the appeals are similar and they were heard together and being adjudicated by a common order. In ITA No. 1572/Del/2023 is taken as the lead case. Following grounds have been raised by the assessee:

"1. That the order passed by Ld. CIT(A) partly allowing the appeal is bad in law.

2. That the Ld. CIT(A) has erred in sustaining the addition made by Ld. AO of Rs. 9,90,000/- u/s 69C.

3. The above grounds are without prejudice to each other.

4. That the appellant crave leave to adduce additional evidence u/r 46A, thought appropriate and necessary."

3. The assessee filed return of income declaring total income of Rs.1,80,33,690/- and addition of Rs.5,00,000/- has been made on account of cash payment made of Rs.5,00,000/- during the assessment completed u/s 143(3) of the Income Tax Act, 1961.

4. Heard the arguments of both the parties and perused the material available on record.

5. We find that the addition of Rs.5,00,000/- has been made based on the photo image in the mobile of one Sh. Ravinder Singh. The photo image was of the ledger account of a marble/granite supplier in the name of the assessee found in the phone of a third party Sh. Ravinder Singh. Neither the statement of Sh. Ravinder Singh has been recorded to prove as to what the ledger is all about, why it was available in his phone nor any statement of the alleged marble supplier was recorded to prove that the assessee has paid the amount of Rs.5,00,000/- to the marble supplier. In the absence of any cogent material, addition made merely based on the photo image of phone of a third person cannot be sustained.

6. In the result, the appeals of the assessee are allowed.
Order Pronounced in the Open Court on 21/06/2024.

Sd/-

(Anubhav Sharma)
Judicial Member

Dated: 21/06/2024

Subodh Kumar, Sr. PS

Sd/-

(Dr. B. R. R. Kumar)
Accountant Member