

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

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

Sh. Sudhir Kumar, Judicial Member

ITA No. 3042/Del/2022 : Asstt. Year: 2017-18

DCIT, Central Circle-03, New Delhi-110055 (APPELLANT)	Vs	Luv Ranjan, R-11/40, Raj Nagar, Ghaziabad, U.P.-201002 (RESPONDENT)
PAN No. AHGPR9364K		

ITA No. 3046/Del/2022 : Asstt. Year: 2017-18

Luv Ranjan, R-11/40, Raj Nagar, Ghaziabad, U.P.-201002 (APPELLANT)	Vs	ACIT, Central Circle-03, New Delhi-110055 (RESPONDENT)
PAN No. AHGPR9364K		

Assessee by : Sh. Nirbhey Mehta, Adv.

Revenue by : Sh. N. G. Joseph Gangte, CIT-DR

Date of Hearing: 22.05.2024

Date of Pronouncement: 19.08.2024

ORDER

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

The present appeals have been filed by the Revenue and the assessee against the orders of Id. CIT(A)-23, New Delhi dated 28.10.2022.

2. In ITA No. 3042/Del/2022, following grounds have been raised by the Revenue:

"1. The Ld. CIT(A) is erred in restricting the addition of unexplained money of Rs. 3,62,07,075/- recorded in seized material related to illegal betting to Rs. 12,12,425/-.

2. *That the Ld CIT(A) is erred in adjusting the losses against the income from illegal betting income without appreciating that addition was made on the basis of profit earned and money invested by the assessee in illegal betting activities irrespective of profit or loss.*

3. *That the Ld. CIT(A) is erred in deleting the addition made of Rs. 24,97,000/- on the basis of seized material (Page No. 4 of Annexure A-3) holding that no addition can be made on the basis of non-speaking documents without any corroborative material.*

4. *The Ld. CIT(A) is erred in accepting the explanation of the assessee that page no.4 of Annexure A-3 is in nature of a budgeting exercise for upcoming film without appreciating that even if it is assumed that page No. 4 of Annexure A-3 does not relate to betting activity and pertain to some film production activity, the amount mentioned therein and source of such expenditure has not been explained by the assessee.*

5. *The Ld. CIT(A) is erred in deleting the addition of Rs. 13,98,700/- u/s 69A on the basis of seized material (Page no. 25 of Annexure A-3) accepting the cash book produced by the assessee before the CIT(A) without appreciating that even the cash book produced by the assessee does not reflect these entries.*

6. *The Ld. CIT(A) is erred in deleting the addition of Rs. 14,29,000/- u/s 69C on the basis of seized material (Page No. 25 of Annexure A-3) accepting the cash book produced by the assessee before the CIT(A) without appreciating that even the cash book produced by the assessee does not reflect these entries."*

3. In ITA No. 3046/Del/2022, following grounds have been raised by the assessee:

"1. *That on the facts and circumstances of the case and in law the order passed by CIT 0 is contrary to the facts and bad in law.*

2. *That the on the facts and circumstances of the case and in law the CIT (A) was not justified in confirming addition of Rs. 12,12,425/- by holding the same to be on account of undisclosed income/profits from betting on cricket matches."*

4. Subsequent to the action conducted on 28.11.2018 u/s 132 of the Income Tax Act, 1961 proceedings u/s 153A have been initiated on the assessee.

Income from Betting activities:

5. During the search operation conducted at Mumbai based on the loose documents Annexure as A-3, the Assessing Officer held that the assessee was involved in earning of income from betting. The details are as under:

S. No	Particulars	Amount(in Rs.)	A.Y.	Nature of Income
1.	Page No. 8 of Annexure A-3	50,77,500/-	2017-18	Unaccounted Betting Income
2.	Page No. 7 of Annexure A-3	12,02,500/-	2017-18	-DO-
3.	Page No. 6 of Annexure A-3	4,34,075/-	2017-18	-DO-
4.	Page No. 4 of Annexure A-3	24,97,000/-	2017-18	-DO-
5.	Page No. 3 of Annexure A-3	94,57,000/-	2017-18	-DO-
6.	Page No. 1 of Annexure A-3	1,76,02,000/-	2017-18	-DO-
	TOTAL	3,62,07,075/-		

6. Based on the above, the Assessing Officer has determined the income based on the figures mentioned on the seized material and brought an amount of Rs.3.62 Cr. u/s 69A of the Act.

7. Aggrieved, the assessee filed appeal before the Id. CIT(A) who modified the addition made by the AO and computed the net taxable income.

8. Aggrieved, the Revenue as well as the assessee filed appeal before the Tribunal.

9. Before us, the Id. DR submitted that the notings on the papers found and seized cannot be disputed and in the absence of plausible explanation, the Assessing Officer has rightly made the addition. On the other hand, the Id. AR relied on the order of the Id. CIT(A).

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

11. The typographical version of the seized material is as under:

Gujarat			Bangalore	
-1000000			+1760000	
-550000			+1000000	
-1550000			+1760000	
-260000	(I)		+500000	(I)
-18100000			+2260000	
-165000			+500000	(H.B.)
-1975000			+2760000	
+92500			-250000	(I)
-1882500			+2510000	

Gujarat			Bangalore
-260000			+ 500000
+ 92500			- 250000
- 167500			+ 250000
			- 100000
			+ 150000

eat	Enq-	50	@	41
eat	Enq-	50	@	26
Put	Enq-	100	@	42
eat	Enq-	50	@	14.5
Put	Enq-	25	@	30
eat	Enq-	25	@	14.5

Eng	WI
-20500	+50000
-13000	+50000
+42000	-100000
+8500	-
-7200	+50000
+7500	-25000
+8750	+25000
-3625	+25000

40	X	4000	=	16000			40	X	3000	=	120000
60	X	1500	=	90000			50	X	1200	=	60000
150	X	300	=	45000			150	X	200	=	30000
25	X	3000	=	75000			20	X	2600	=	52000
2	X	1000	=	20000			2	X	5000	=	10000
				39000							272000
60	X	1000	=	60000							
60	X	6000	=	36000							
				96000							
50	X	1000	=	50000							
25	X	4000	=	10000							
50	X	4000	=	20000							
50	X	1500	=	75000							
				12500							

56P-	Eat	IND-	10L			HITESH		
82P-	PUT	IND-	2L					
85P-	PUT	IND-	2L		82P-	PUT	IND-	1L
45P-	EAT	ENG-	2.5L		45P-	EAT	ENG-	1L
40P-	EAT	ENG-	12L		67P-	EAT	IND-	2L
25P-	EAT	ENG-	5L					
42P-	PUT	ENG-	3L					
74P-	PUT	ENG-	1L					
91P-	PUT	ENG-	1L					
87P-	EAT	IND-	1L					
67P-	EAT	IND-	2L					
R15-	PUT	25000						
53P-	EAT	IND-	10L					
26P-	EAT	IND-	5L					
45P-	PUT	IND-	2L					
	IND	ENG				IND	ENG	
	(-)560000	(+)1000000				(+)82000	(-)100000	
	(+)164000	(-)200000				(+)100000	(-)45000	
	(+)170000	(-)200000				(-)134000	(+)200000	
	(+)250000	(-)135000				(+)48000	(+)55000	
	(+)1200000	(-)480000						
	(+)500000	(-)125000						
	(-)300000	(+)126000						
	(-)100000	(+)74000						
	(-)100000	(+)91000						
	(-)87000	(+)100000						
	(-)134000	(+)200000						
	(-)25000	(-)25000						
	(-)530000	(+)1000000						
	(-)130000	(+)500000						
	(+)90000	(-)200000						
	4,08,000	(+)1726000						

13. The Id. CIT(A) held that during the course of assessment proceedings explained the contents of the document. However, the Assessing Officer did not accept the reply and added the entire amount (Rs.3,62,07,075/-) as income u/s 69A of the Act. The Id. CIT(A) held that only the net amount could be brought to tax and the quantum of addition should have been the net of both negative and positive amounts. The Id. CIT(A) held that the quantum of profit or loss is completely different from the additions made by the AO on the basis of Annexure -A-3. The AO has made addition of Rs.3,62,07,075/- as income. But after adjusting loss from the gains or profit on each bet, the real income turns out to be Rs. 12,12,425/- instead of 3,62,07,075/- Thus, real income from betting on cricket matches is 12,12,425/- which is the result of positive and negative signs. Hence, keeping in view the entire factual matrix, we find no reason to interfere with the order of the Id. CIT(A) who rightly affirmed the net income for taxation after duly considering the gains as well as losses.

14. The result, the appeal of the assessee as well as the Revenue on this issue is dismissed.

Unexplained Income u/s 69A/69C:

15. Based on the seized material page no. 25 of annexure 25 seized from the assessee's premises at Bunglow No. 159, SVP Nagar, MHADA, Four Bunglows, Andheri, Mumbai. The AO made addition of Rs.13,98,700/- u/s 69A of the Act as unexplained income and Rs.14,29,000/- u/s 69C as unexplained expenditure.

16. The typographical version of above page is reproduced below for better understanding of this page:

		Debit			Credit
1	Naren	200000	1	Aman	29000
2	Manish	50000	2	Aman Dad	1400000
3	Balley	50000			
4	Ria	50000			
5	Luv	50000			
6	Naren	200000			
7	Naren	100000	(20/3/17)		
8	Manish	100000	(21/3/17)		
9	Naren	200000	(21/3/17)		
10	Naren	18700	(21/3/17)		
11	Naren	50000	(22/3/17)		
12	Manish	80000	(22/3/17)		
13	Ayeaz	68000	(22/3/17)		
14	Luv	182000	(22/3/17)		

17. The AO held that the debit and credit entries were unaccounted income and expenses of the assessee in cash which have not been entered in the books of accounts. The AO made addition of all the debit entries u/s 69A and credited entries u/s 69C.

18. Aggrieved, the assessee filed appeal before the Id. CIT(A) who deleted the addition made by the AO.

19. Aggrieved, the Revenue filed appeal before the Tribunal.

20. Before us, the Id. DR submitted that the notings on the papers found and seized cannot be disputed and in the absence of plausible explanation, the Assessing Officer has rightly made the addition u/s 69A as well as u/s 69C. The income and expenditure have to be duly accounted in the books of account

failing which the same shall be treated as undisclosed income and unaccounted expenditure of the assessee. On the other hand, the Id. AR relied on the order of the Id. CIT(A).

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

22. The Id. CIT(A) held that on the top of these entries the narration written is "DEBIT". Against certain entries under the debit column dates are also mentioned which are 20.03.17, 21.03.17 & 22.03.17. On the right hand side of the page the narration on top is mentioned as "CREDIT". Under this column the entries mentioned are Aman - 29,000/-, Aman Dad - 14,00,000/-. The grand total of all debit entries is Rs. 13,98,700/- and that of credit entries is Rs. 14,29,000/-.

23. Before the AO, during the course of assessment proceedings the explanation furnished by the appellant with regard to this seized paper was that the jottings on the page pertained to cash withdrawn from bank for production related expenses of the film "*Sonu Ke Titu Ki Sweety*". It was further explained that the cash was utilized on shooting expenses of the film in Delhi/Noida and was handled by Mr. Aman and his Dad. It was clarified that Mr. Aman is spouse of Smt. Vinni Garg who is sister of the appellant and Mr. Aman is a resident of Ghaziabad. The money was paid as imprest to various persons including the production accountant Mr. Manish Parab, executive producer Mr. Naren Kumar and production assistant Mr. Ashvinder. The AO held that the above page details of debit and credit are written which are unaccounted income and expenses

of Sh. Luv Ranjan in cash not entered in the books of accounts. On this reasoning the debit entries amounting to Rs. 13,98,700/- have been added being unexplained income u/s 69A of the Act and credit entries amounting to Rs. 14,29,000/- have been added u/s 69C as unexplained expenditure.

24. It is a fact on record that the amounts were withdrawn from the declared bank account of Allahabad Bank A/c No. 50360779037. An examination of the same shows that the title of the account is "M/s Luv Films - SKTKS". Therefore, it emerges that a special bank account was opened for expenditure related to production of the film "Sonu Ke Titu Ki Sweety" (SKTKS). The examination of bank account further reveals that there is a cash withdrawal of Rs. 15,00,000/- on 09.03.2017 and Rs.5,00,000/- on 10.03.2017. The dates of cash withdrawals are very near to the dates of giving imprest advances mentioned in the seized documents which is 20.03.2017, 21.03.2017 & 22.03.2017. The Id. CIT(A) has gone through the entire cash book which is reproduced at page no. 20 to 24 of the order and categorically mentioned that the dates of withdrawal of cash from the bank account, the cash book and the seized material have been tallied and hence, the expenses disclosed cannot be considered as bogus.

25. Since, the assessee had cash available as evident from the bank statement and the cash book for meeting production expenses which is a general pattern of meeting expenses in outdoor shooting of the film, we hold that no addition u/s 69A and u/s 69C are called for and accordingly the decision of the Id. CIT(A) on this issue is affirmed.

26. In the result, the appeal of the Revenue is dismissed and the appeal of the assessee is also dismissed.

Order Pronounced in the Open Court on 19/08/2024.

Sd/-

**(Sudhir Kumar)
Judicial Member**

Dated: 19/08/2024

Subodh Kumar, Sr. PS

Copy forwarded to:

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

Sd/-

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

ASSISTANT REGISTRAR