

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

**BEFORE SH. DR. B.R.R. KUMAR ACCOUNTANT MEMBER  
AND  
SH. SUDHIR KUMAR, JUDICIAL MEMBER**

ITA No.1651/Del/2020  
Assessment Year: 2016-17

<b>DCIT Central Circle – 30 New Delhi</b>	<b>Vs</b>	<b>Smt Urmila Goyal K-69 Hauz Khas Enclave Delhi PAN No.AAOPG3349Q</b>
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

Appellants by	<b>Smt Sapana Bhatia CIT-DR</b>
Respondent by	<b>Sh. Prateek Mittal CA</b>

Date of hearing:	23/07/2024
Date of Pronouncement:	28/08/2024

**ORDER**

**PER SUDHIR KUMAR, JM:**

This appeal by the revenue is directed against the order of the Commissioner of Income Tax (Appeals)-30, Jhandewalan New Delhi, [hereinafter referred to as "CIT(A)"], vide order dated 13.07.2020 pertaining to A.Y. 2016-17 and arises out of the order passed by the Assessing Officer dated 31.12.2018 under Section 153A of the Income Tax Act, 1961 [hereinafter referred as 'the Act'].

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

*“1. Ld. CIT(A) has erred in law or facts in deleting addition by holding that there was no incriminating material in possession of the AO to substantiate the unaccounted investment of Rs. 6.25 crore cash to acquire sharers of the company M/s Cruise Property Pvt. Ltd. Ld. CIT(A) has failed to appreciate the statements recorded u/s 132(4) of the Income Tax Act wherein Dhruva Goel, son of the Urmila Goel, has described how the whole transactions were done.*

*2. Ld. CIT(A) has erred in law or facts in accepting the retraction of Dhruva Goel, son of the Urmila Goel without any evidence on record. The Ld. CIT(A) has mere believed the concocted story of Dhruva Goel, son of the Urmila Goel that he had lost the balance of his mind during search. The assessee has not submitted any evidence on record for retraction of the statement recorded u/s 132 (4) of the Income Tax Act.*

*3. That the order of Ld. CIT(A) is perverse, erroneous and is not tenable on facts and in law.*

*4. That the grounds of appeal are with prejudice to each other.*

*5. That the appellant craves leave to add, amend, alter or forgo any ground(s) of appeal either before or at the time of hearing of the appeal.”*

3. Brief fact of the case is that the assessee had filed his return of income u/s 139 of the Act declaring total income of Rs.13,42,530/- on 03.08.2016. Subsequently, search and

seizure action u/s.132 of the Act was carried out on 27-07-2016 and 23-08-2016 in the case of the assessee along with the other cases of Shri Kartar Singh, his family and associates cases at various residential and business premises. Notice u/s 153A of the Act was issued on 11-09-2018 and in the response of the notice the assessee has filed return of income declaring income at Rs 13,55,050/- on 02-10-2018. During the assessment proceedings the AO has found that the assessee along with her son Shri Dhruva Goel and had acquired a Company namely 'Cruise Properties Pvt Ltd' from Shri Devender Kumar and Shri Sumit Gupta through transfer of shares. This Company was in ownership of agriculture land measuring 13 bigha 18 biswas in village Pindwalakalan, Tehsil Najafgarh, New Delhi. During the search proceedings on 23-08-2016 the statement of Shri Dhruva Goel was recorded under Section 132(4) of the Act wherein Shri Dhruva Goel has admitted the he has invested the amount of Rs.8.50 crores for acquiring the company. The son of the assessee had admitted that he along with his mother had paid total consideration of Rs.8.50 crores for acquiring the company consisting of Rs 2.25 crores was paid by cheque and rest of Rs 6.25 crores in cash. However immediately after search and conclusion of operation of bank locker on 20-09-2016, the son of the assessee had filed a retraction statement stating that he had not paid any money

in cash. The Dhruva Goel has stated that investigation team had taken the statement forcibly against his will. The AO has made the addition of Rs.6.25 crores u/s 69 of the Act on protective basis in the assessee's income.

4. The assessee has filed the appeal before the Ld CIT(A) who vide his order dated 13-07-2020 allowed the appeal. Aggrieved the order of the Ld CIT(A) the revenue is in appeal before us.

5. The DR vehemently supported the order of the Assessing officer. He has submitted that Ld CIT(A) has erred in fact in accepting the retraction statement of Dhruva Goel and believed the concocted story of Dhruva Goel. He has further submitted that the son of the assessee had paid the Rs.6.25 crores in cash to acquire shares of the company which was accepted by the Dhruva Goel in his statement.

6. The AR of the assessee has submitted that no addition can be made on the basis of the statement recorder during the course of search without bringing any corroborating incriminating material. In this case no incriminating material was found during the search. He has further submitted that the statement of Dhruva Goel has no value because this is a retracted statement.

7. Reliance has placed on the following judgments:-

- 1. Pullangode Rubber Produce Company Ltd. Vs. State of Kerala and Another (1973) 91 ITR 18 (SC)**
- 2. Hon'ble Rajasthan High Court in case of CIT Vs. Ashok Kumar Soni (2007) 291 ITR 172 (Raj)**
- 3. Asstt. CIT Vs. Jorawar Singh M. Rathod [2005] 94 TTJ (Ahd.) 867**

8. The Ld CIT(A) has observed in his order us under :-

*“12. In this case the Assessing Officer has made protective addition of Rs.6,25,00,000/- u/s. 69 of the Act, to the income of the assessee for the A.Y. 2016-17, concluding that the appellant and her son Shri Dhruv Goel have made an unaccounted investment of Rs.6,25,00,000/- for acquiring the made an unaccounted investment of Rs.6,25,00,000/- for acquiring the company M/s. Cruise Property Pvt. Ltd. on the basis of the statement of Shri Dhruva Goel recorded u/s. 132 (4) of the Act, which was later retracted. The Assessing Officer had made the substantive addition of Rs. 6.25 crores on the same issue in the case of Shri Dhruva Goel for the A.Y. 2016-17. The substantive addition made in the case of Shri Dhruva Goel, A.Y. 2016-17 has been deleted in the case of Shri Dhruva Goel for the A.Y. 2016-17. In view of this, no protective addition in the case of Smt. Urmila Goyal for the A.Y. 2016-17 can be sustained. Accordingly, the appellant gets relief and the protective addition amounting to Rs. 6,25,00,000/- is hereby deleted.”*

9. We have heard the rival arguments and perused the material available on record.

10. On perusal of the order of the Ld.CIT(A) reveals that remand report was called out by the Ld CIT(A) but the AO has failed to provide any incriminating material against the assessee. There was no incriminating material on record to support the statement of the Dhruva Goel. The son of the assessee has also filed the retraction statement within 10 days of search and seizure proceedings in which he was stated that his statement was recorded forcibly. On the basis of such statement, no addition can be made without supportive materials. The Ld CIT(A) has rightly deleted the prospective addition made by the AO. We do not find any reason to interfere with the order of the Ld CIT(A). The appeal of the revenue is liable to be dismissed.

11. In the result, the appeal of the revenue is dismissed.

Order pronounced in the open court on 28.08.2024.

Sd/-

**(DR. B.R.R. KUMAR)**  
**ACCOUNTANT MEMBER**

\*NEHA, Sr. PS\*  
Date:- .08.2024  
Copy forwarded to:  
1.Appellant  
2.Respondent  
3.CIT  
4.CIT(Appeals)  
5.DR: ITAT

Sd/-

**(SUDHIR KUMAR)**  
**JUDICIAL MEMBER**

ASSISTANT REGISTRAR  
ITAT NEW DELHI