

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'A': NEW DELHI  
BEFORE  
SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER  
AND  
SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER**

**ITA No. 894/Del/2024, (A.Y.2014-15)**  
**ITA No. 895/Del/2024, (A.Y.2017-18)**

Anil Kumar Seth House No. 141/8, Sethan Mohalla, Kaithal, Haryana- 136027 <b>PAN No: APQPS4647J</b>	Vs.	Deputy Commissioner of Income Tax, Income Tax office Central Circle, Karnal
<b>(Appellant)</b>		<b>(Respondent)</b>

Appellant by	Sh. VK Bindal, CA & Ms. Rinki Sharma, ITP
Respondent by	Ms. Amisha S. Gupt, CIT-DR

Date of Hearing	24/10/2024
Date of Pronouncement	12/11/2024

**ORDER**

**PER YOGESH KUMAR U.S., JM :**

Both the above captioned appeals are filed by the Assessee against the orders of Office of Commissioner of Income Tax [Appeals]-3 [“Ld. CIT(A)” for short], Gurgaon, dated 28/12/2023 for the Assessment Years 2014-15 and 2017-18 respectively.

2. The grounds of Appeal are as under: -

**ITA No. 894/Del/2024**

*“1.The CIT(A) erred in law and on facts in confirming the additions despite the fact that the assessment of income for this*

*assessment year was completed u/s 153A of the Act vide order dated 29/03/2016 and all the undisclosed incomes including the amounts added here were considered there before completing the said assessment. No incriminating material was found during the course of search. Thus, the impugned assessment order must be annulled.*

*2 The CIT(A) erred in law and on facts in confirming the assessment order u/s 144 of the Act, whereas all the necessary information was already placed on record.*

*3 The CIT(A) erred in law and on facts in making an addition of Rs. 60,000/- for the two amounts given to the two persons out of the cash in hand balance available with the assessee and which was already considered while passing the earlier assessment order u/s 153A of the Act, where no addition was made for the same. Thus, following *Abhisar Buildwell Pvt Ltd*, the same must be deleted.*

*4 The CIT(A) erred in law and on facts in confirming an addition for a sum of Rs. 2,00,000/- refunded in cash on 05/04/2013 out of the amount of Rs 20,00,000/- received in cash during the period relevant to the preceding assessment year ignoring that out of the very amount received a sum of Rs 2,00,000/- was returned in this year since the source of Rs 2,00,000/- returned was very much there on the record and following the principle of telescoping of cash availability, the addition must be deleted. Moreover, the transaction belonged to the employer company of the appellant.*

5. *The CIT(A) erred in law and on facts in confirming an addition of Rs 18,03,750/- deposited with the HUDA for the shop from disclosed sources and explained in the earlier proceedings completed u/s 153A of the Act where the sources were duly accepted. This is not an incriminating material. Thus, the addition should be deleted.*

6. *The CIT(A) erred in law and on facts in considering all the additions made in the assessment order as form undisclosed sources u/s 69 of the Act and by applying provisions of section 115BBE of the Act on the same. The same findings must be reversed.*

**ITA No. 895/Del/2024, (A.Y.2017-18)**

1. *The CIT(A) erred in law and on facts in confirming the assessment order u/s 144 of the Act, whereas all the necessary information was already placed on record.*

2. *The CIT(A) erred in law and on facts in confirming an addition of Rs 55,12,570/- paid to HUDA out of which Rs 20,00,000/- was received from Smt Ranjana Seth, wife of the assessee out of her bank account where her sources are duly explained, Rs 12,570/- was FDRs and cash available with the assessee and the balance Rs 35,00,000/- was received from Shri Vishnu Eatables (India) Ltd. the then employer of the assessee through declared regular bank account. Thus, the addition must be deleted.*

3. *The CIT(A) erred in law and on facts in making an addition of Rs 59,255/- in respect of non-taxable gain earned on redemption for Rs 1,59,255/- of Axis Tripple Advantage Fund acquired on 03/08/2010 for Rs 1,00,000/- and the gain was not taxable due to indexation. However, no enquiry in this regard was made though the said amount was declared as an exempt income in the regular return of income filed on 12/03/2018. Thus, the addition made must be deleted.*

*4. The Assessing Officer erred in law and on facts in considering all the additions made in the assessment order as from undisclosed sources u/s 69 of the Act and by applying provisions of section 115BBE of the Act on the same. The same findings must be reversed.”*

3. Brief facts of the case are that, an assessment orders came to be passed on 06/12/2018 and 05/12/2018 respectively by making certain additions for Assessment Years 2013-14 and 2016-17. As against the above Assessment Orders, the Assessee preferred Appeals before the CIT(A). The Ld. CIT(A) vide orders dated 28/12/2023 dismissed the Appeal filed by the Assessee which are under challenge by the Assessee in the above Appeals.

4. The Ld. Counsel for the Assessee vehemently submitted that assessment orders have been passed ex-pare and even the Ld. CIT(A) has not adjudicated the issues involved in the Appeals and not considered the submissions made by the Assessee and submitted that the Ld. CIT(A) has committed error in dismissing the Appeals which are in violation of principles of natural justice.

5. Per contra, the Ld. Departmental Representative by relying on the orders of the Lower Authorities sought for dismissal of the Appeals.

6. We have heard both the parties and perused the material available on record. Considering the fact that the assessment orders have been passed

ex-parte and even the Ld. CIT(A) has not adjudicated all the issues and contentions raised by the Assessee in both the years under consideration, we remand the matters to the file of the A.O. for framing de-novo assessment in accordance with law after providing opportunity of being heard to the Assessee. The Assessee is also directed to cooperate with the assessment proceedings without fail, accordingly we partly allow the Grounds of Appeal of the Assessee for statistical purpose.

7. In the result, the appeal of the Assessee in ITA No. 894/Del/2024 and 895/Del/2024 are partly allowed for statistical purpose.

Order pronounced in open Court on 12th November, 2024

Sd/-

**(S. RIFAUR RAHMAN)**  
**ACCOUNTANT MEMBER**

Dated: 12/11/2024

*R.N, Sr. PS*

Sd/-

**(YOGESH KUMAR U.S.)**  
**JUDICIAL MEMBER**

Copy forwarded to:

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

ASSISTANT REGISTRAR

ITAT, NEW DELHI

