

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH “SMC”: NEW DELHI**

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER

ITA No. 3140/DEL/2024
[Assessment Year: 2017-18]

Avtar Singh, Old Bus Stand, Una, Himachal Pradesh-174303 PAN: AISPA 4444 L	<u>Vs</u>	Dy. Commissioner of Income-tax, Central Circle-7, New Delhi.
APPELLANT		RESPONDENT
Appellant by	None (written request)	
Respondent by	Shri Yogesh Sharma, Sr. DR	
Date of hearing	06.11.2024	
Date of pronouncement	14.11.2024	

ORDER

PER SATBEER SINGH GODARA, JM:

This assessee’s appeal for assessment year 2017-18 arises against order dated 10.05.2023 passed by the Commissioner of Income-tax (Appeals)-24, New Delhi, in appeal no. CIT(A), Delhi-24/10440/2016-17, in proceedings u/s 250 of the Income-tax Act, 1961. Case called twice. None appears at the assessee’s behest. He is accordingly proceeded ex parte.

2. It emerges during the course of hearing with the able assistance coming from the Revenue's side that both the learned lower authorities had initiated section 153C proceedings in case of this taxpayer, who happens to be a person other than the searched assessee, after the impugned search action dated 05.01.2017 conducted in Jindal Bullion Ltd. (JBL), group of cases.

3. Learned Departmental Representative vehemently submitted that both the learned lower authorities had not only rightly initiated the impugned proceedings but also the addition herein amounting to Rs. 23,78,141/- under the head 'cash received' deserves to be upheld.

4. I have given my thoughtful consideration to the Revenue's foregoing vehement contentions and find no reason to express my concurrence with the same. This is for the precise reason that going by para 2 in assessment discussion, the learned departmental authorities had treated some ledger account revealing cash transaction as 'belonging to the assessee', whereas section 153C(1)(a) of the Act envisages that only "any money, bullion, jewellery or other valuable article or thing, seized or requisitioned" could be taken as belonging to such other person. It is, therefore, clear that the impugned section 153C satisfaction to this effect itself does not satisfy the test of law and, therefore, this assessment deserves to be quashed as a necessary corollary. Ordered accordingly.

5. This assessee's appeal is allowed.

Order pronounced in open court on 14.11.2024

**Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER**

MP

Copy forwarded to:

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

**ASSISTANT REGISTRAR
ITAT, NEW DELHI**