

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

ITA No. 7425/Del/2017, A.Y.2013-14)

Goldies Trading Co. Ltd. RRA, Tax India, D-28, south Extension, Part-1 New Delhi PAN : AACCG9622P	Vs.	DCIT Central Circle-II Faridabad Haryana
(Appellant)		(Respondent)

Appellants by	Sh. Somil Agarwal, Adv
Respondent by	Sh. Dayainder Singh Sidhu, CIT(DR)

Date of Hearing	28/10/2024
Date of Pronouncement	25/11/2024

ORDER

PER YOGESH KUMAR U.S., JM :

The present appeal is filed by the Assessee against the order of Ld. Commissioner of Income Tax (appeals)-Karnal, (Ld. Ld. CIT(A) for short], dated 05/09/2017 for the Assessment Year 2013-14.

2. Brief facts of the case are that, a search and seizure operation has been conducted u/s 132(1)(A) of the Income Tax Act, 1961 ('Act' for short) on residential as well as business/office premises of SRS Group of cases on 09/05/2012. An assessment order came to be passed 143(3) r.w.s 153B of the Act by making certain additions vide Assessment order dated 23/03/2015. Aggrieved by the Assessment order dated 23/03/2015, the Assessee preferred an Appeal before the

Ld. CIT(A). The Ld. CIT(A) vide order dated 05/09/2017, dismissed the Appeal filed by the Assessee by confirming the additions made by the A.O. As against the order of the Ld. CIT(A), the Assessee preferred the present Appeal.

3. The Ld. Counsel for the Assessee submitted that the Co-ordinate Bench of the Tribunal in Assessee's own case for Assessment Year 2010-11 to 2012-13 in ITA No. 7421-7423/Del/2017 vide order dated 31/05/2024 considering the deemed date of search as 18/09/2014 and by following the decision of Hon'ble Supreme Court in the case of CIT Vs. Jasjit Singh (2023) 458 ITR 437 (SC), deleted the addition, therefore, sought for allowing the Appeal for the year under consideration (2013-14) by following the Assessee's own case for Assessment Year 2010-11 to 2012-13.

4. We have heard the rival contentions and perused the case laws cited by the Ld. AR for the Assessee and also perused the impugned orders.

5. The Co-ordinate Bench of the Tribunal while deciding the similar issue for Assessment Year 2010-11 to 2012-13 in ITA No. 7421, 7422 and 7423/Del/2017, deleted the addition in following manners: -

“9. We have heard the rival contentions and perused the case laws cited by the Ld. AR for the assessee and also perused the impugned orders. On perusal of the assessment order, it is noted that the instant assessment is pursuant to notice u/s. 153C read with 153A of the Act. We note that the additions in dispute are not based upon any incriminating material found during the course of search. Ld. DR could not dispute this proposition. We note that as per the decision of the Hon’ble Supreme Court of India in the case of PCIT vs. Abhisar Buildwell Pvt. Ltd., CA No. 67580/2021 dated 24.4.2023, (2023) SCC Online SC 481, no addition can be made the assessment framed u/s. 153A de hors incriminating material found during the search. We find considerable cogency in the contention of the Ld. AR that the original return of income was filed on 25.09.2010 and notice u/s. 153C is dated 18.09.2014 and in view of the 10 Hon’ble Supreme Court in the case of CIT vs. Jasjit Singh (2023) 155 taxmann.com 155 (SC), 18.09.2014 should be taken as the date of search in the present case and therefore, the assessment year 2010-11 did not abate on the aforesaid date of search as time limit to issue notice expired on 30.09.2011.

10. It is further noted that identical disallowance on account of freight charges was made in assessee’s own case in AY 2007-08 and AY 2009-10 and the Tribunal has deleted the same.

11. Keeping in view the aforesaid discussion and following the precedent of Hon’ble Apex Court in the case of PCIT vs. Abhisar Buildwell Pvt. Ltd. (Supra), we set-aside the order of the Ld. CIT(A) and decide the issues in favour of the assessee and accordingly, allow the appeal of the assessee for AY 2010-11.

12. Following the consistent view as taken in AY 2010-11, as aforesaid, the issues raised in Assessee’s other ITA Nos. 7422 & 7423/Del/2017 (Ays. 2011-12 & 2012-13) are also decided in favour of the assessee by setting aside the orders of the Ld. CIT(A) in both the years too and accordingly allowed the appeals of the assessee.”

6. In view of the addition of Co-ordinate Bench in Assessee’s own case for Assessment Year 2010-11 to 2012-13 in ITA No. 7421-7425/Del/2017 dated 31/03/2024, by following the principles of consistency and in the absence of any contrary settled principles of law brought to the notice of the Bench, we set aside the impugned assessment order and the order of the Ld. CIT(A).

7. In the result, the Appeal filed by the Assessee is allowed.

Order pronounced in open Court on 25th November, 2024

Sd/-

(SHAMIM YAHYA)
ACCOUNTANT MEMBER

Dated: 25/11/2024

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