

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

**ITA No. 1610/Del/2024 (A.Y 2013-14)**

**ITA No. 1623/Del/2024 (A.Y 2015-16)**

**ITA No. 1624/Del/2024 (A.Y 2016-17)**

Jasmine Buildmart (P) Ltd. 406, 4 <sup>th</sup> floor, Elegance Tower 8, Jasola District Centre, Delhi-110025 <b>PAN No:AACCJ5119L</b>	Vs.	JCIT (OSD) Central Circle-27, E-2, ARA Centre, Jhandewalan Extension, New Delhi
<b>(Appellant)</b>		<b>(Respondent)</b>

Appellant by	Sh. Vinod Kumar Bindal, CA & Ms. Rinky Sharma, ITP
Respondent by	Sh. Dayainder Singh Sidhu, CIT(DR)

Date of Hearing	12/12/2024
Date of Pronouncement	18/12/2024

**ORDER**

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

The above three Appeals pertaining to Assessment Year 2013-14, 2015-16 and 2016-17 filed by the Assessee challenging the orders of the Ld. CIT(A) dated 12/02/2024. For the sake of convenience, the Grounds of Appeal of the Assessee for Assessment Year 2013-14 are reproduced as under: -

**ITA No. 1610/Del/2024 (A.Y 2013-14)**

“1. The impugned notice issued u/s 148 of the Act was simply on a borrowed satisfaction and for the purpose of enquiry / further verification, particularly where the original assessment of income was earlier completed u/s 143(3) of the Act and which is not permitted by the law and not based on any new information suggesting any escaped income. Thus, the same not have been considered by the CIT(A) must be quashed.

2. The impugned appellate order passed completely lacks principles of natural justice as the assessee could not make submissions on the last 4 dates of hearings from 04/12/2023 to 29/01/2024 as Mr Amit Katyal who was searched with the LARA Group on 16/05/2017 and where the assessee being part of the Krrish group of Mr Amit Katyal, was in judicial custody arrested by the ED on 09/11/2023 and got interim bail on 05/02/2024 for 4 weeks from the court of Special Judge (PC Act) CBI- 24, (MPs/MLAs Cases), RADC, New Delhi. Thus, the assessee was prevented due to reasonable cause and making compliance on the due dates. Thus, the same be set aside to the CIT(A) for fresh adjudication, if not quashed.

3. The learned CIT(A) erred in law and on facts in confirming the assessment order without considering the facts on record placed by the assessee.

4. The impugned assessment order is bad in law and on fact as the earlier assessment was completed u/s 143(3) of the Act on 22/03/2016 where the amounts added in the impugned assessment order were duly considered and therefore, the notice issued u/s 148 of the Act on change of opinion is bad in law as it is based on the same set of facts and amounts to a change of opinion. It must be quashed.

5. The AO has failed to identify as to what information was not disclosed in the earlier assessment proceeding which was completed u/s 143(3) of the Act on 22/03/2016. Thus, the onus of the revenue has not been discharged and the assessment order passed on surmises and change of opinion must be quashed.

6. The impugned assessment order is bad in law as the same has been passed without confronting the material relied upon by the AO therein and by violating all the settled principles of law and natural justice and also by referring to some material found in a search or

*survey operation undertaken on 09/11/2011 u/s 132 and 133A of the Act on the group which had no relevance in these proceedings. This itself vitiates the impugned notice u/s 148 of the Act as its genesis was non-existent.*

*7. The CIT(A) erred in law and on facts in confirming an addition of Rs 1 crore in respect of the share application money received from one Mr. KR Anand during the FY 2010-11 relevant to the AY 2011-12 and not during the relevant period and just on a borrowed reasons without any verification. In fact, out of the said amount of Rs 1 crores, a sum of Rs 75,00,000/- had already been refunded by the appellant by the end of the period relevant to the assessment year just leaving a balance of Rs 25 lakhs. Thus, no cash credit for this period, no addition u/s 68 of the Act could be made which has been made without examination of the information on his record in the original assessment proceedings where the said issue was very well examined. Thus, the impugned addition made is devoid of any merit and must be deleted.*

*8. The CIT(A) erred in law and on facts in confirming an addition of Rs 5,59,25,724/- for the interest paid by the assessee on bank loan alleging that the assessee had given interest free advances from the year 2010 to 2018 of almost Rs 269 crores to its associated concerns and therefore, the said interest paid was not for the purpose of business. However, the same must be deleted as*

*i) it is a vague averment of the AO without any details of the period of loans and subsequent treatment of the same,*

*ii) because it was very much paid for the purpose of real estate business of the assessee out of advances received from the properties' buyers,*

*iii) where due to the local land holding law and rules, there is a ceiling of holding plots of agricultural land by an entity till the land use is changed,*

*iv) without establishing any nexus of the amount given to the associate concern for the business of the assessee with the loan borrowed, and also*

*v) by ignoring that the assessee had at his disposal more interest free funds than the amounts of the loans given to the associate concerns,*

*vi) because the original assessment order was passed u/s 143(3) of the Act on 22/03/2016 at nil amount after examining the same.*

*Thus, the said disallowance must be deleted.*

*9. The CIT(A) erred in law and on facts in confirming an addition as unexplained cash credited u/s 68 of the Act of Rs 51,54,230/- being cash received from many purchasers of the flats / plots of land developed by the appellant in its real estate project as is mentioned in the impugned assessment order and duly recorded in the books of account as*

*i) the amounts were duly recorded in the books of account admittedly against sale proceeds from the identified buyers from whom cheques were also received.*

*ii) The properties against the said amounts were duly sold/transferred to them in the subsequent years and no enquiry was made by the AO from the said buyers despite having their full particulars on his record in the computerized books of account of the appellant, seized at the time of search / survey on the group.*

*iii) because the original assessment order was passed u/s 143(3) of the Act on 22/03/2016 at nil amount after examining the same.*

*Thus, the impugned additions must be deleted.*

*10. The CIT(A) erred in law and on facts in confirming an addition of Rs 20,10,00,000/- u/s 41(1)(a) of the Act for the amount received by the assessee from Ambawatta Buildwell (P) Ltd though out of the sum of Rs 53 crores received by the assessee, after a detailed working a sum of Rs 32,90,00,000/- was determined as income and was already added by the AO as income of the appellant for the AY 2014-15. Thus, the addition without considering the said exercise determining the total amount must be deleted.*

*11. The appellant craves the leave to add, substitute, modify, delete or amend all or any ground of appeal either before or at the time of hearing.”*

2. The Ld. Counsel for the Assessee canvassing on Ground No. 2 of the Grounds of appeal, submitted that the Assessee could not make submissions before the Ld. CIT(A) on last four dates of hearing from 04/12/2023 to

29/01/2024 as Mr. Amit Katyal who was searched with LARA Group on 16/05/2017 and the Assessee being part of the Krrish Group of Amit Katyal, was in judicial custody as the ED had arrested him on 09/11/2023 and got interim bail only on 05/02/2024. Thus, the Assessee could not make the submission before the Ld. CIT(A) in all the Appeals in respect of the Assessment Years under consideration. Thus, sought for an opportunity to contest the matter before the Ld. CIT(A).

3. Per contra, the Ld. Departmental Representative relied on the orders of the Lower Authorities and sought for dismissal of the Appeals, however Department's Representative not disputed the facts put forth by the Ld. Assessee's Representative.

4. We have heard both the parties and perused the material available on record. As could be seen from the order of the Ld. CIT(A), even after issuing several notices the Assessee has not appeared before the Ld. CIT(A). It is the case of the Assessee that Mr. Amit Katyal, who was searched with LARA Group on 16/05/2017 and the Assessee being a part of Krrish Group of Amit Katyal, who was in judicial custody arrested by ED on 09/11/2023 and who got interim bail on 05/02/2024. Therefore, the Assessee could not make the submission before the Ld. CIT(A). It is seen from the order of the Ld. CIT(A), the Ld. CIT(A) has not decided the Appeal on its merit and not decided all the Grounds of Appeal of the Assessee. Considering the above facts and circumstances, we deem it fit to set aside the order of the Ld. CIT(A) and

remand the matter to the file of the Ld. CIT(A) to decide the Appeals of the Assessee on its merit after providing the opportunity of being heard to the Assessee.

5. Since, we have restored the matter to the file of the Ld. CIT(A) for fresh adjudication on merit, all other grounds on merits requires no adjudication. Accordingly, Appeals in ITA No. 1610/Del/2024, 1623/Del/2024 and 1624/Del/2024 are partly allowed for statistical purpose.

Order pronounced in open Court on 18<sup>th</sup> December, 2024

Sd/-  
**(SHAMIM YAHYA)**  
**ACCOUNTANT MEMBER**

Dated: 18/12/2024

*R.N, Sr. PS*

Copy forwarded to:

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

Sd/-  
**(YOGESH KUMAR U.S.)**  
**JUDICIAL MEMBER**

ASSISTANT REGISTRAR  
ITAT, NEW DELHI