

**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. 133/Del/2021 (A.Y 2014-15)

ITA No. 134/Del/2021 (A.Y 2015-16)

Shakuntalam Investment and Leasing Limited 770/24, GF, DDA Flats, Kalkaji, New Delhi PAN No:AAACS4752J	Vs.	ACIT Central Circle-01 E-2, ARA Centre, Jhandewalan Extension, New Delhi
(Appellant)		(Respondent)

Appellant by	Sh. Ravi Pratap Mall, Adv
Respondent by	Sh. Dayainder Singh Sidhu, CIT(DR)

Date of Hearing	18/12/2024
Date of Pronouncement	19/12/2024

ORDER

PER YOGESH KUMAR U.S.:

The Assessee preferred the captioned Appeals for Assessment Years 2014-15 and 2015-16 aggrieved by the orders dated 20/01/2021 passed by the Commissioner of Income Tax (Appeals)-23, New Delhi-23(Ld. CIT(A) for short).

2. The Assessee raised identical grounds of Appeal in both the Appeal except variation in the amount. For the sake of convenience, the Grounds of Appeal for Assessment Year 2014-15 are reproduced as under: -

“1. The Order passed by the Ld. CIT (Appeals) is opposed to law and facts of the case,

2. That in the facts of the case and as per law, the learned CIT (A) erred in upholding the additions made by the Assessing Officer in the returned income during the course of assessment u/s 153A read with section 143(3) of the Act, which are not based on any incriminating material found during the course of search on the Appellant Company, and contrary to the ratio of various judicial precedents which have held that the scope of assessment which are not pending at the time of conducting of search u/s 153A of the Act, encompasses additions/ disallowance, based on incriminating material found during the course of search only.

3. The Ld. CIT(A) has erred in law and in facts in upholding the addition of Rs.27,20,000/- made by the Ld. Assessing Officer on account of unexplained money in the form of cash found to be deposited in the bank account of the Appellant Company u/s 68 of the Income Tax Act, 1961.

3. Brief facts of the case are that, the assessment orders have been passed on 25/12/2019 for Assessment Year 2014-15 and 2015-16 respectively u/s 153A r.w. Section 143(3) of the Act by making additions u/s 68 of the Act. Aggrieved by the assessment orders dated 25/12/2019, the Assessee preferred two Appeals before the Ld. CIT(A). The Ld. CIT(A) vide orders impugned, sustained the addition made by the A.O. on account of unexplained money of Rs. 27,20,000/- and Rs. 25,75,000/- respectively for Assessment Year 2014-15 and 2015-16. Aggrieved by the orders impugned dated 20/01/2021 the Assessee preferred the captioned Appeals on the Grounds mentioned above.

4. The Ld. Counsel for the Assessee vehemently submitted that the Ld. A.O. initiated proceedings u/s 153A of the Act though there was no incriminating material was unearthed during the course of the search. The Ld. Counsel for the Assessee further submitted that the bank account of the Assessee and the audited financials of the Assessee were duly produced before the A.O. and there was no incriminating material indicating that the cash deposits made by the Assessee are undisclosed income. The Ld. Counsel has also taken us through the Paper Book page No. 73 to 83, wherein produced the copy of the Notice issued u/s 133(6) dated 18/12/2019 to ICICI along with the bank statement of the Assessee to substantiate the contention that the bank statements of the Assessee were very well available with the A.O. which has been procured during the Assessment Proceedings and submitted that the same has not been considered by the authorities below. The Ld. Counsel relying on the Judgments of the Jurisdictional High Court in the case of CIT vs Kabul Chawla reported in 380 ITR 573 and the Judgment of Hon'ble Apex Court in the case of PCIT vs Abhisar Buildwell Pvt. Ltd. reported in 454 ITR 212, submitted that the additions have been made in the absence of incriminating materials unearthed during the course of the search, thus, sought for allowing the Appeal.

5. Per contra, the Ld. Departmental Representative submitted that the documents produced at page No. 73 to 83 made have to be verified from assessment record as to whether the same are part of the Assessment Record which were procured during the assessment proceedings or not and further relying on the orders of the Lower Authorities, submitted that the Assessee failed to prove the identity of the person so deposited cash, genuineness of the transaction as well as creditworthiness of the person who deposited the cash. thus, sought for dismissal of the Appeal.

6. We have heard both the parties and perused the material available on record. The Assessee has produced the statement of account which has been called by the A.O. u/s 133(6) of the Act from ICICI Bank, the bank statement of the Assessee was very well procured by the A.O. during the assessment proceedings, which has been procured by Ld. Assessee's Representative at Page No. 73 to 83 along with the Certificate stating that the said document is part of Assessment Record. It is seen from the document produced at Page No. 73 to 83, during the assessment proceedings a Notice u/s 133(6) of the Act has been issued to ICICI Bank and the Bank provided the bank statement of account of the Assessee. The addition has been made in respect of the cash deposits made in the ICICI bank account of the Assessee which has been duly disclosed by the Assessee in its audited financial. Considering the fact that the copy of the

bank statement was not found during the course of the search and the same has been obtained post search u/s 133(6) of the Act, makes it clear that the additions have been made in the absence of any incriminating material found during the search. Thus, relying on the ratio laid down by the Hon'ble Supreme Court in the case of PCIT vs Abhisar Buildwell Pvt. Ltd. reported in 454 ITR 212, we delete the addition made by the A.O. for Assessment Year 2014-15 and 2015-16, which has been confirmed by the Ld. CIT(A).

7. In the result, the Appeal filed by the Assessee in ITA No. 133/Del/2021 and 134/Del/2021 are allowed.

Order pronounced in open Court on 19th December, 2024

Sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER

Dated: 19/12/2024

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

