

**IN THE INCOME TAX APPELLATE TRIBUNAL,
DELHI BENCH: 'G' NEW DELHI**

**BEFORESHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
AVDHESH KUMAR MISHRA, ACCOUNTANT MEMBER**

ITA No.455/Del/2017
Assessment Year: 2010-11

With

ITA No.379/Del/2017
Assessment Year: 2013-14

M/s. Span Holding Pvt. Ltd., 220, Okhla Industrial Estate, Phase-III, New Delhi	Vs.	ACIT, Central Circle, New Delhi
PAN :AAACS0294H		
(Appellant)		(Respondent)

With

ITA No.782/Del/2017
Assessment Year:2007-08

With

ITA No.783/Del/2017
Assessment Year:2008-09

With

ITA No.784/Del/2017
Assessment Year: 2009-10

With

ITA No.785/Del/2017
Assessment Year: 2010-11

With

ITA No.786/Del/2017
Assessment Year: 2011-12

With

ITA No.787/Del/2017
Assessment Year:2013-14

With

ITA No.793/Del/2017
Assessment Year:2012-13

ACIT, Central Circle, New Delhi	Vs.	M/s. Span Holding Pvt. Ltd., 220, Okhla Industrial Estate, Phase-III, New Delhi
PAN :AAACS0294H		
(Appellant)		(Respondent)

With

C.O. Nos.18 to 24/De/2022
(Arising out of ITA Nos.782 to 787 & 793/Del/2017
Assessment Year: 2013-14

M/s. Span Holding Pvt. Ltd., 220, Okhla Industrial Estate, Phase-III, New Delhi	Vs.	ACIT, Central Circle, New Delhi
PAN: AAACS0294H		
(Appellant)		(Respondent)

Assessee by	Sh. M.P. Rastogi, Advocate Sh. Deepak Malik, Adv. Sh. Shivam Malik, Adv.
Department by	Ms. Jaya Chaudhary, CIT(DR)

Date of hearing	17.12.2024
Date of pronouncement	27.12.2024

ORDER

PER SATBEER SINGH GODARA, JM

The instant batch of sixteen cases pertains to the single assessee herein M/s. Span Holding Pvt. Ltd. All other relevant details, assessment year-wise are read as under:

Sl. No.	Appeal No.	Appellant	Respondent	Order Appealed against
1.	455/Del/2017 for AY 2010-11	M/s. Span Holding Pvt. Ltd.	ACIT, Central Circle-8, New Delhi	CIT(A)-24, New Delhi's order dated 23.11.2016 passed in case no. 63/15-16 involving proceedings under Section 153A r.w.s. 143(3) of the Act.

2.	379/Del/2017 for AY: 2013-14	M/s. Span Holding Pvt. Ltd.	ACIT, Central Circle-8, New Delhi	CIT(A)-24, New Delhi's order dated 23.11.2016 passed in case no. 66/15-16 involving proceedings under Section 153A r.w.s. 143(3) of the Act.
3-4	782/Del/2017 for AY: 2007-08 and C.O.No.18/Del/2022	ACIT, Central Circle-8, New Dehi	M/s. Span Holding Pvt. Ltd.	CIT(A)-24, New Delhi's order dated 23.11.2016 passed in case no. 95/15-16 involving proceedings under Section 153A r.w.s. 143(3) of the Act.
5-6	783/Del/2017 for AY: 2008-09 and C.O.No.19/Del/2022	ACIT, Central Circle-8, New Dehi	M/s. Span Holding Pvt. Ltd.	CIT(A)-24, New Delhi's order dated 23.11.2016 passed in case no. 96/15-16 involving proceedings under Section 153A r.w.s. 143(3) of the Act.
7-8	784/Del/2017 for AY: 2009-10 and C.O.No.20/Del/2022	ACIT, Central Circle-8, New Dehi	M/s. Span Holding Pvt. Ltd.	CIT(A)-24, New Delhi's order dated 23.11.2016 passed in case no. 97/15-16 involving proceedings under Section 153A r.w.s. 143(3) of the Act.
9-10	785/Del/2017 for AY: 2010-11 and C.O.No.21/Del/2022	ACIT, Central Circle-8, New Dehi	M/s. Span Holding Pvt. Ltd.	CIT(A)-24, New Delhi's order dated 23.11.2016 passed in case no. 63/15-16 involving proceedings under Section 153A r.w.s. 143(3) of the Act.
11-12	786/Del/2017 for AY: 2011-12 And C.O.No.22/Del/2017	ACIT, Central Circle-8, New Dehi	M/s. Span Holding Pvt. Ltd.	CIT(A)-24, New Delhi's order dated 23.11.2016 passed in case no. 64/15-16 involving proceedings under Section 153A r.w.s. 143(3) of the Act.
13-14	787/Del/2017 for AY: 2013-14 and C.O.No.24/Del/2022	ACIT, Central Circle-8, New Dehi	M/s. Span Holding Pvt. Ltd.	CIT(A)-24, New Delhi's order dated 23.11.2016 passed in case no. 66/15-16 involving proceedings under Section 153A r.w.s. 143(3) of the Act.
15-16	793/Del/2017 for AY: 2012-13 and C.O.No.23/Del/2022	ACIT, Central Circle-8, New Dehi	M/s. Span Holding Pvt. Ltd.	CIT(A)-24, New Delhi's order dated 23.11.2016 passed in case no. 65/15-16 involving proceedings under Section 153A r.w.s. 143(3) of the Act.

2. Heard both the parties at length. Case files perused.

3. It emerges during the course of hearing with the able assistance coming from both the parties, and more particularly, the Revenue's side that its three appeals ITA Nos. 786, 793 & 787/Del/2017 for assessment years 2011-12; 2012-13 & 2013-14 involved tax effect of Rs.49,82,180/-; 57,22,778/- and 44,23,311/-, respectively which are less than the minimum tax effect Rs.60 lakhs as prescribed in CBDT's latest circular 9/2024, dated 17.09.2024 made applicable to all pending appeals as well. We accordingly dismiss the Revenue's instant appeals ITA Nos.786, 793 & 787/Del/2017 for this precise reason subject to all just exceptions.

4. Learned counsel representing assessee is equally fair in not pressing for its cross objections C.O. Nos. 22 to 24/Del/2022, case-wise, respectively. Rejected accordingly.

5. We now proceed to deal with the remaining ten cases i.e. assessee's ITA Nos.455 & 379/Del/2017 & cross objection C.O. Nos. 18 to 21/Del/2017; Revenue's appeals ITA No. 782 to 785/Del/2017.

6. Mr. Rastogi refers to the assessee's identical legal grounds raised in all these cases that the corresponding assessment

herein are not sustainable in law since no addition therein has been made based on incriminating material, which forms a condition precedent as per hon'ble apex court recent landmark decision in PCIT Vs. Abhisar Buildwell Pvt. Ltd. (2023) 454 ITR 212 (SC).

7. Learned CIT(DR), on the other hand, vehemently objects to the assessee's instant additional ground that such a recourse could not be allowed to be taken at this belated stage wherein all the relevant facts do not form part of the records. We find no merit in the Revenue's foregoing technical ground once the assessee's foregoing legal arguments sought to be canvassed by way of an additional ground go to root of the matter and all the relevant facts are already on record. We thus quote NTPC Vs. CIT (1998), 229 ITR 383 (SC) that this tribunal could indeed admit any such legal ground going to the root of the matter for the purpose of determining correct tax liability of a taxpayer provided all relevant facts form part of the records. We accordingly admit the assessee's foregoing additional grounds/arguments in very terms.

8. Next comes our adjudication reversing the foregoing issue of the validity of the impugned reassessments in light of *Abhisar Buildwell Pvt. Ltd.* (supra). We are informed that the search herein took place in assessee's or its group cases on 16.01.2013. Learned CIT(DR) states that there was a yet another similar search action on the very date against M/s. U.K. Paints as well. Ms. Chaudhary's case accordingly is that the impugned additions made in assessee's hands are in fact based on the incriminating materials found in the said latter party's search which to be upheld.

9. We find no substance in the Revenue's foregoing legal arguments once it has come on record that learned departmental authorities have not made any addition in assessee's hands based on any seized material in its own search going by *Abhisar Buildwell Pvt. Ltd.* (supra). We further deem it to clarify that all these are unabated assessments only as on the date of search. We accordingly accept the assessee's instant legal ground in all these assessment years in very terms. The impugned assessments herein stand quashed therefore.

10. All other pleadings on merits herein have been rendered academic.

11. This leaves us with the assessee's remaining appeal ITA No. 379/Del/2017 wherein it challenges correctness of both the learned lower authorities action making section 14A disallowance of Rs.4,20,703/- relating to its exempt income amounting to Rs. 42,03,634/-. We further note that it has also sought to raise an additional ground challenging validity of the impugned assessment itself for want of the prescribed section 153D approval.

12. We wish to make it clear first of all the impugned assessment year 2013-14 involves regular assessment as the date of search herein 28.01.2013 and therefore, the foregoing "unabated" assessment law would not apply herein. This is indeed coupled with the fact that the assessee has also raised the very section 153D approval of substantive ground in its corresponding cross objection (supra) wherein it never pressed the same as the Revenue's appeal was dismissed for involving low tax effect (supra). We thus reject the assessee's instant additional ground in

very terms so as to avoid mutual conflict in our findings in very terms.

13. Coming to merits of the impugned section 14A disallowance, learned counsel could hardly pinpoint any illegality or infirmity therein as the Assessing Officer had adopted the correct figures for the purpose of computing Rule 8D disallowance involving three limbs of direct, proportionate interest, administrative expenditure, respectively. The assessee fails in its instant sole substantive ground on merits. So is the outcome of main appeal ITA No. 379/Del/2017.

14. To sum up, our decision in assessee's appeals and Revenue's appeals istabulated as under:

Sl. No.	Appeal/cross objection no.	Appellant	Respondent	Result
1.	ITA No.786/Del/2017	ACIT	M/s. Span Holdings Pvt. Ltd.	Dismissed
2.	ITA No.793/Del/2017	ACIT	M/s. Span Holdings. Pvt. Ltd.	Dismissed
3.	ITA No.787/Del/2017	ACIT	M/s. Span Holdings. Pvt. Ltd.	Dismissed
4.	C.O. No.22/Del/2022	M/s. Span Holdings. Pvt. Ltd.	ACIT	Rejected as not pressed
5.	C.O. No. 23/Del/2022	M/s. Span Holdings. Pvt. Ltd.	ACIT	Rejected as not pressed
6.	C.O. No. 24/Del/2022	M/s. Span Holdings Pvt. Ltd.	ACIT	Rejected as pressed
7.	ITA No. 782/Del/2017	ACIT	M/s. Span Holdings Pvt. Ltd.	Dismissed
8.	ITA No.783/Del/2017	ACIT	M/s. Span Holdings Pvt. Ltd.	Dismissed
9.	ITA No.784/Del/2017	ACIT	M/s. Span Holding Pvt. Ltd.	Dismissed

10	ITA No.785/Del/2017	ACIT	M/s. Span Holding Pvt. Ltd.	Dismissed
11.	ITA No. 455/Del/2017	M/s.Span Holding Pvt. Ltd.	ACIT	Allowed
12.	ITA No. 379/Del/2017	M/s.Span Holding Pvt. Ltd.	ACIT	Dismissed
13.	C.O. No. 18/Del/2022	M/s.Span Holding Pvt. Ltd.	ACIT	Allowed
14	C.O. No.19/Del/2022	M/s. Span Holding Pvt. Ltd.	ACIT	Allowed
15.	C.O. No.20/Del/2022	M/s. Span Holding Pvt. Ltd.	ACIT	Allowed
16.	C.O. No.21/Del/2022	M/s. Span Holding Pvt. Ltd.	ACIT	Allowed

15. A copy of this common order be placed in the respective case files.

Order pronounced in the open court on 27th December, 2024

Sd/-
(AVDHESH KUMAR MISHRA)
ACCOUNTANT MEMBER

Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

Dated: 27th December, 2024.

RK/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi