

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES: G : NEW DELHI

BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER
AND
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER

| ITA No. & Assessment Year | Appellant | Respondent |
|---------------------------|--|---|
| 4877/Del/2017 2013-14 | ACIT, Central Circle-2, New Delhi. | VGRM Infrastructure & Amusement P. Lt., Sector-10, Metro Walk, Near Rithala metro Station, Rohini, New Delhi – 110 085. PAN: AADCV8394E |
| 5549/Del/2017 2014-15 | - Do - | - Do - |
| 5550/Del/2017 2014-15 | - Do - | R.V. Buildtech & Amusement P. Ltd., Sector-10, Metro Walk, Near Rithala metro Station, Rohini, New Delhi – 110 085. PAN: AAFCR8733B |

Assessee By : None
Revenue By : Ms Jaya Chaudhary, CIT-DR

Date of Hearing : 28.01.2025
Date of Pronouncement : 31.01.2025

ORDER

PER ANUBHAV SHARMA, JM:

These are appeals preferred by the Assesseees against the orders of the Ld.
First Appellate Authority in appeals filed before him against the orders of the ld.

Assessing Officer (hereinafter referred to as the Ld. AO, for short). Further details of the orders of the lower authorities are as under:-

| ITA No. & Assessment Year | CIT(A) who passed the order | Appeal No. & Date of order of the CIT(A) | AO who passed the assessment order & Date of order | Section of the IT Act under which the AO passed the order |
|---------------------------|-----------------------------|---|---|---|
| 4877/Del/2017 2013-14 | CIT(A)-23, New Delhi. | 396, 400 & 405/16-17, dated 19.05.2017 | ACIT, Central Circle-2, New Delhi, date: 30.12.2016 | 153A r.w.s. 143(3) |
| 5549/Del/2017 2014-15 | - Do | 406, 395, 401 & 380/16-17, dated 02.06.2017 | - Do - | - Do - |
| 5550/Del/2017 2014-15 | - Do - | - Do - | - Do - | - Do - |

2. As the cases were called for hearing, none has appeared for the assesseees and the record shows earlier adjournments were sought by the representatives of the assessee. Notices have been issued to the Respondent assesseees through the Department and compliance reports have been filed. No further opportunity is justified.

3. The arguments of Id. DR were heard. As with regard to the assessee, VGRM Infrastructure & Amusement P. Ltd., we find that in regard to AY 2013-14, 4877/Del/2017, the CIT(A) has given relief to the assessee with following findings in para 3.3.2.2:-

“3.3.2.2 In the first two cases, M/s R.V. Buildtech & Amusement Pvt. Ltd. and M/s VGRM Infrastructure & Amusement Pvt. Ltd. for the AY 2013-14, the additions made by the AO reflects total non-application of mind (apparently in the process of copy and paste from another order of the group) in as much as in both these cases no share application money or

unsecured loan as observed by the AO has been taken by the two appellants and, in fact, they had advanced money to M/s K.D. Consultancy Pvt. Ltd., another Appu Ghar group company, as is also perceptibly visible from the audited accounts of these two companies where the respective amount of Rs.1,71,34,000/-and Rs.1,71,33,000/- are reflected under 'loan and advances' under the group-head 'current assets'. The AO has apparently not even bothered to have a look at the audited accounts of these companies before making additions. The additions are ill-founded and baseless and therefore deleted.”

4. The aforesaid could not be factually disputed by the ld. DR. Further, we find that the ld.CIT(A) has also observed that during the search on the Appu Ghar group, no share certificate of the assessee company was found so as to make the addition u/s 153A/143(3) of the Act on the basis of any incriminating material found during the search. Thus, the findings of the ld.CIT(A) giving benefit to the assessee cannot be interfered with. The grounds of the Revenue have no substance.

5. As with regard to the assessees/Respondents VGRM Infrastructure & Amusement P. Ltd. 5549/Del/2017 and R.V. Buildtech & Amusement P. Ltd. (ITA No.5550/Del/2017) for AY 2014-155549/Del/2017, we find from the assistance of the ld. DR that in the case of M/s M.V. Realtors & Amusement P. Ltd. in ITA No.5552/Del/2017 for AY 2014-15, a coordinate Bench in which one of us (Judicial Member) was in the quorum had considered the grounds which are similar to the grounds raised before us in this appeal and have restored the issue to the files of ld. CIT(A). We find that the order of the ld.CIT(A) impugned in the case of the present assessee is verbatim and in fact part of the

same order by which case of M/s M.V. Realtors & Amusement P. Ltd. (supra) was decided. We consider it appropriate to reproduce the relevant findings in the case of M/s M.V. Realtors & Amusement P. Ltd., (supra) which squarely applies to the cases of the present assessee also:-

“8. It can be observed that the ld CIT(A) in its findings in para No. 4.3.2.3 while concluding observations mentions that “since the investments were made by these five companies, obviously the statements of Shri Latif Khan cannot be considered, under the facts and circumstances brought out herein above, as being conclusive piece of evidence to hold the investments of these companies as in genuine. In fact, on perusal of the assessment order. I do not find any evidence as having been mentioned and considered by the AO which could hold the investment of these investor companies as ingenuine.”

9. This observation itself is self contrary as to when there was no evidence coming up from the statement of Mr. Latif Khan then denial of right to cross examine cannot be considered to be fatal to hold the additions unsustainable.

10. Then it can be observed that the ld CIT(A) in para 4.3.3.2 and 4.3.3.3 observed that the observations of ld AO “that no reply from investor companies were received” was factually incorrect and the ld CIT(A) has taken into consideration the evidence submitted by the ld AR of the Assessee about confirmation being submitted to the ld AO. As a matter of fact in para 4.1 of its order the ld AO observed that the Assessee filed its reply dated 26.12.2016 and mentioned that they have requested the share holders to comply with the notices issued and that the share holders have informed that the necessary compliance is being made as per directions of the ld AO in the notice. The bench is of considered opinion that in the absence of calling of remand report from the ld AO, observations as have been made by the ld CIT(A) cannot be sustained.

11. In the light of the aforesaid issue with regard to genuineness of the alleged unexplained cash credit is restored to the file of the ld CIT(A) to be decide afresh after taking remand report with regard to the fact mentioned in para No. 4.3.3.2 from the ld AO. An opportunity of hearing afresh be also given to the Assessee in that regard.”

6. In the light of the aforesaid, the appeals of the Revenue are allowed with consequences to follow as per the aforesaid directions in case of M/s M.V. Realtors & Amusement P. Ltd. in ITA No.5552/Del/2017 for AY 2014-15, and the issue is restored to the files of the CIT(A).

7. The appeal 4877/Del/2017 of revenue is dismissed and appeals 5549/Del/2017 and 5550/Del/2017 are allowed for statistical purposes.

Order pronounced in the open court on 31.01.2025.

Sd/-

(SHAMIM YAHYA)
ACCOUNTANT MEMBER

Dated: 31st January, 2025.

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Copy forwarded to:

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

Sd/-

(ANUBHAV SHARMA)
JUDICIAL MEMBER

Asstt. Registrar, ITAT, New Delhi