

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

**Before Sh. Satbeer Singh Godara, Judicial Member
&
Sh. S. Rifaur Rahman, Accountant Member**

ITA No. 6341/Del/2016 : Asstt. Year: 2011-12

ACIT, Central Circle-16 (Erstwhile CC-21), New Delhi	Vs	M/s Mahamaya Exports Pvt. Ltd., 208-210, Second Floor, District Centre, Rectangle-1, D-4, Saket, New Delhi
(APPELLANT)		(RESPONDENT)
PAN No. AAACM0765B		

**Assessee by : None
Revenue by : Ms. Baljeet Kaur, CIT-DR**

Date of Hearing: 30.01.2025	Date of Pronouncement: 30.01.2025
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ORDER

This Revenue's appeal for Assessment Year 2011-12, arises against the CIT(A)-XXVI, New Delhi's case No. 59/2014-15 dated 07.09.2016, in proceedings u/s 153C/153A of the Income Tax Act, 1961 (in short "the Act").

2. Case called twice. None appears at the assessee's behest.

It is accordingly proceeded *ex-parte*.

3. The Revenue's raises the following substantive grounds in the instant appeal:

"1. That the Ld.CIT (A) has substantially erred on facts and in law in admitting the additional evidence filed by the assessee during the course of appellate proceedings without considering the fact that the

relevant details as filed by the assessee during the course of appellate proceedings were not filed even when multiple opportunities were given to the assessee to file requisite details/documents during the course of assessment proceedings.

2. Whether the Ld. CIT(A) is correct in facts and in law in stating that the satisfaction note was not prepared by the A.O. of the person other than the search person (A.O. of M/s Mahamaya Exports Pvt. Ltd.) when the A.O. of the searched person as well as other person was the same and satisfaction note is available in both the files.

3. That the Ld. CIT(A) has erred in law and on facts in holding that the AO could not have proceeded to frame assessment u/s 153A in absence of incriminating material without appreciating the fact the provisions of the section 153A of the I. T. Act provides for assessment and reassessment of total income of assessee does not confine assessment or reassessment to incriminating documents only.

4. That the Ld. CIT(A) has erred in law and on facts in wrongly appreciating the provision of section 153A of the I.T. Act which clearly provides for assessment and reassessment of total income and does not restrict the scrutiny assessment only to the documents found and seized during search.

5. That the Ld. CIT(A) has erred in law and on facts in holding that since no incriminating documents were found during the course of search for this year, assessment u/s 153A of the Act could not have been completed.

6. The CIT(A), being a fact finding authority, has erred in facts and in law in allowing the appeal of the assessee without independently verifying the facts of the case, as mandated by the Hon'ble High Court in the case of CIT Vs. Jansampark Advertising (375 ITR 373).

7. That the Ld. CIT(A) has erred on facts and in law in deleting the addition of Rs. 38,28,225/- made by AO on account of unexplained investment in property of the assessee.

8. *That The Ld. CIT(A) has erred on facts and in law in deleting the addition of Rs. 2,39,84,675/- made by AO on account of unexplained investment in property of the assessee.*

9. *That The Ld. CIT(A) has erred on facts and in law in deleting the addition of Rs. 16,59,53,125/- made by AO on account of Unexplained investment in property by the assessee."*

4. We next note with the able assistance coming from the Revenue side during the course of hearing that the learned Assessing Officer had made three undisclosed/unexplained payment additions of Rs.38,28,225/-, Rs.2,39,84,675/- and Rs.16,59,53,125/-; respectively, alleging the assessee to have agreed for on-money payments/receipts; as the case may be, whilst purchasing/selling as many parcel of lands in real estate business.

5. Learned CIT-DR could hardly dispute the identical clinching facts in all these three additions that the impugned sums were "to be paid" than representing actual receipt or payment thereof, so as to form subject matter of addition. We wish to clarify here that we afforded adequate opportunities to the department to take us to the specific material against the assessee indicating any such actual payment or receipt which has not been quoted before us. That being the case, we conclude that the learned CIT(A) has rightly deleted the

impugned three additions as there was no supportive material against the assessee once the same had "to be paid" than having actually paid or received the amount. The Revenue's instant sole substantive ground raised in the appeal herein fails accordingly.

6. This Revenue's appeal is dismissed.

Order Pronounced in the Open Court on 30/01/2025.

Sd/-
(S. Rifaur Rahman)
Accountant Member

Sd/-
(Satbeer Singh Godara)
Judicial Member

Dated: 30/01/2025

Subodh Kumar, Sr. PS

Copy forwarded to:

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

ASSISTANT REGISTRAR