

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

**BEFORE SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER, AND
SHRI NAVEEN CHANDRA, ACCOUNTANT MEMBER**

ITA No. 1464/DEL/2019 [A.Y. 2010-11]
ITA No. 1465/DEL/2019 [A.Y. 2011-12]

Shri Hemant Kumar
House No. 26, Ground Floor
Aakash Neem Marg, DLF Cityy
Phase - II, Gurugram

Vs. The I.T.O.
Ward -1(3)
Gurugram

PAN: AAKPK 9873 D

(Applicant)

(Respondent)

Assessee By : Dr. Rakesh Gupta, Adv
Shri Somil, Agarwal, Adv

Department By : Shri Om Parkash, Sr. DR

Date of Hearing : 28.01.2025
Date of Pronouncement : 07.02.2025

ORDER

PER NAVEEN CHANDRA, ACCOUNTANT MEMBER:-

Both the above captioned separate appeals by the assessee are preferred against the order of the Id. CIT(A)- 1, Gurgaon dated 31.03.2016 pertaining to A.Ys 2010-11 and 2011-12.

2. Since common grievances are involved in both the captioned appeals, they were heard together and are disposed of by this common order for the sake of convenience and brevity, though the quantum may differ.

3. Representatives of both the sides were heard at length. Case records carefully perused. Relevant documentary evidence brought on record duly considered in light of Rule 18(6) of the ITAT Rules.

4. At the very outset, the ld. counsel for the assessee submitted that the ld. CIT(A) has ignored the evidences produced by the assessee for AY 2010-11 and AY 2011-12 and there are ostensible errors in the order of the ld. CIT(A) and, therefore, he prayed for remitting the matter to the file of the Assessing Officer for fresh adjudication of the evidences.

5. Per contra, the ld. DR relied upon the orders of the ld. CIT(A).

6. We have heard the rival submissions and have perused the relevant material on record. The ld. counsel for the assessee has submitted the following grounds for AY 2010-11 for remitting the matter to the file of the Assessing Officer:

Ground Nos. 1 and 2 relating to addition of Rs 2,51,27,502/- on account of unsecured loan u/s 68.

In fact, this issue may be required to be sent back to the A.O. on the following grounds:-

a) Amount was received and partly repaid but addition has been made in respect of net addition

b) Amount was received and repaid but evidences filed were ignored.

c) Amount was received as a result of settlement of dispute through Court but evidences ignored.

d) There was death of one creditor and evidence given but ignored.

e) Loan given earlier, received back during the year was not considered.

f) Evidences were submitted but Hon'ble CIT(A) say that no evidences were filed.

7. The ld AR further submitted that in the case of Smt. Sunita (Rs.4,50,000/-)Amount received was Rs.17,00,000/- and repaid to the extent of Rs. 12,50,000/- but addition was made for the net amount i.e. Rs. 4,50,000/-. In the case of Sh. Veenit Bhatia (Rs. 10,00,000/-),the amount was received through Court on settlement of dispute. In the case of M/s Duggal Properties P. Ltd. (Rs. 75,00,000/-),the loans were repaid back. In the case of Mr. Sanjay Kohli (Rs. 14,25,000/-) evidences furnished were not examined. In case of Mrs. Manika Man Sukhani (Rs. 70,00,000/-), the loans were repaid also. In case of Sh. Shyam Bihari Lal (Rs. 23,00,000/-), total amount received was Rs.26,00,000/- out of

which Rs. 3,00,000/- was repaid and addition was made for the net amount and assessee also expired. Similarly, evidences were not examined in the case of Mr. Rajesh Juneja (Rs.3,00,000/-); M/s Luxmi Fruit Centre (Rs. 17,00,000/-) M/s Shiv Expo Mark P. Ltd. (Rs. 25,00,000/-).

8. With respect to ground no. 3-4, 5-6, the ld AR stated that the same are not pressed as these were allowed by Ld. CIT(A).

9. With respect to ground no. 7-8 relating to addition of Rs.1,66,00,616/- on account of advance received on booking of plot / flats. It is the say of the ld. counsel for the assessee that identical issue was considered and sent back to the Assessing Officer by the ITAT in assessee's own case decided on 08.03.2024 for A.Y 2012-13 in ITA No.3458/DEL/2017

10. After considering the facts and submissions and perusing the Tribunal order [supra], we find that the issue of sale of property involved are identical and the co-ordinate bench has held as under:

"15. With regard to CO No . 159/Del/2022 pertaining to the capital received from Smt. Vandana and the advance received in connection with proposed sale of property, by the parties

fairly submitted that the matter needs verification and examination of the alleged transaction and documents thereof. Hence, in the interest of justice, the matter is remanded to the file of the Assessing Officer for appropriate enquiries as deemed fit. The AO shall afford an opportunity to the assessee to file the replies and evidences relied upon."

11. For the AY 2011-12, the Id AR has raised similar grounds on the issue of cash deposits of Rs 4,84,03,500/- and addition of Rs 3,18,61,638/- on account of unsecured loan.

12. In view of the above factual position, we are of the considered opinion that, in the interest of justice and fair play and following the decision of the coordinate bench of Delhi ITAT in the assessee's own case, we deem it fit to restore the both the appeals for AY 2010-11 and AY 2011-12 to the file of the Assessing Officer for fresh adjudication. The Assessing Officer is directed to decide the issues afresh after affording reasonable and sufficient opportunity of being heard to the assessee. The assessee is directed to avail the opportunity and present its case.

13. In the result, the appeal of the assessee in ITA Nos. 1464 and 1465/DEL/2019 are allowed for statistical purposes.

The order is pronounced in the open court on 07.02.2025.

Sd/-

Sd/-

**[CHALLA NAGENDRA PRASAD]
JUDICIAL MEMBER**

**[NAVEEN CHANDRA]
ACCOUNTANT MEMBER**

Dated: 07th FEBRUARY, 2025.

VL/

Copy forwarded to:

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

Asst. Registrar,
ITAT, New Delhi

Sl No.	PARTICULARS	DATES
1.	<i>Date of dictation of Tribunal Order...</i>	28.01.2025
2.	<i>Date on which the typed draft Tribunal Order is placed before the Dictation Member</i>	.02.2025
3.	<i>Date on which the fair Tribunal Order is placed before the Dictating Member for pronouncement</i>	
4.	<i>Date on which the approved draft Tribunal Order comes to the Sr. P.S./P.S.</i>	
5.	<i>Date on which the fair Tribunal Order is placed before the Dictating Member for pronouncement</i>	
6.	<i>Date on which the signed order comes back to the Sr. P.S./P.S</i>	
7.	<i>Date on which the final Tribunal Order is uploaded by the Sr. P.S./P.S. on official website</i>	
8.	<i>Date on which the file goes to the Bench Clerk alongwith Tribunal Order</i>	
9.	<i>Date of killing off the disposed of files on the judiSIS portal of ITAT by the Bench Clerks</i>	
10.	<i>Date on which the file goes to the Supervisor (Judicial</i>	
11.	<i>The date on which the file goes to the Assistant Registrar for endorsement of the order</i>	
12.	<i>Date of Despatch of the Order</i>	