

**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. 1836/Del/2023 : Asstt. Year: 2018-19

Rachita Sahgal, C-2, Flat No. 601, Uni World City, Sector-30, Gurgaon-122001	Vs	ACIT, Central Circle-8, New Delhi-110002
(APPELLANT)		(RESPONDENT)
PAN No. ANTPS4874Q		

ITA No. 1888/Del/2023 : Asstt. Year: 2018-19

Vivek Sahgal, C-2, Flat No. 601, Uni World City, Sector-30, Gurgaon-122001	Vs	ACIT, Central Circle-8, New Delhi-110002
(APPELLANT)		(RESPONDENT)
PAN No. AAMPS2422E		

Assessee by : None

Revenue by : Ms. Baljeet Kaur, CIT-DR

Date of Hearing: 27.01.2025

Date of Pronouncement: 07.02.2025

ORDER

Per Satbeer Singh Godara, Judicial Member:

These twin assessees as many appeals i.e. ITA Nos. 1836 & 1888/Del/2023, for A.Y. 2018-19 arise against the CIT(A)-24, New Delhi's case Nos. CIT(A), Delhi-24/10339/2017-18 and CIT(A), Delhi-24/10336/2017-18 dated 16.05.2023, in proceedings u/s 153C of the Income Tax Act, 1961 (in short "the Act"), respectively.

2. Case called twice. None appears at the assessee's behest. They are accordingly proceeded *ex-parte*.

3. The Revenue is indeed very fair in rendering its able assistance to us during the course of hearing that these twin assesseees Smt. Rachita Sahgal & Vivek Sahgal; are infact a couple, proceeded u/s 153C of the Act, in furtherance to the department's search action dated 03.01.2018 in M/s Navneet Dawar group wherein the letter had found/seized incriminating material "belonging" to them indicating on-money payments in property transaction(s), resulting in identical addition of Rs.42,94,000/- each in their respective hands. Learned CIT-DR further takes us the corresponding Exhibit-13 at pages 4 & 5 of the assessment order dated 31.12.2012 to this effect to buttress the Revenue's stand that the impugned identical addition has been rightly made in the assesseees' hands.

4. We have given our thoughtful consideration to the assesseees pleadings and Revenue's foregoing vehement contentions reiterating their respective stands. We see no reason to uphold validity of the impugned assessments as the learned assessing authority had held the foregoing seized document(s) as "belonging" to the assesseees, in the assessment

order, whereas such a material could only “pertains” or “pertain” or “relates” to as per amended section 153C(1)(b) of the Act by the Finance Act, 2015 w.e.f. 01.06.2015. We wish to clarify here that clause (a) to section 153C(1) stipulates certain specific items i.e. money, bullion or other valuable articlesas “belongs” to than the latter clause (b) hereinabove applicable in a different situation. We thus hold that the learned lower authorities have erred in law and on facts in proceedings against these twin assessee’s based on an invalid satisfaction in these facts and circumstances.

5. Next comes merits of the impugned on-money addition wherein the department vehemently quotes section 292C of the Act *qua* the above seized material Exhibit-13. We are of the considered view that such a presumption u/s 292C of the Act applies only against the person from whom the corresponding incriminating material has been found and seized than a third person and therefore, the impugned addition without any supportive evidence or corroboration does not deserve to be upheld on merits as well. Deleted accordingly.

6. These twin assessee's appeals are allowed in above terms.
A copy of this common order be placed in the respective case files.

Order Pronounced in the Open Court on 07/02/2025.

Sd/-
(S. Rifaur Rahman)
Accountant Member

Sd/-
(Satbeer Singh Godara)
Judicial Member

Dated: 07/02/2025

Subodh Kumar, Sr. PS

Copy forwarded to:

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

ASSISTANT REGISTRAR