

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

**BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER
AND
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

**ITA No.7750/Del/2018
(ASSESSMENT YEAR 2007-08)**

Asst. CIT, Central Circle-15, Delhi.	Vs.	M/s Space Age Technical Services Pvt. Ltd. A-15, Brij Green Farm, Chattarpur, Mandi Road, Village-Satbari, Mehrauli, New Delhi-110030. PAN-AAHCS5508D
(Appellant)		(Respondent)

Assessee by	Sh. Salil Aggarwal, Sr. Adv., Sh. Shailesh Gupta, Adv. & Sh. Uma Shankar, Adv.	
Department by	Ms. Jaya Choudhary, CIT-DR	
Date of Hearing		04/02/2025
Date of Pronouncement		12/02/2025

ORDER

PER MANISH AGARWAL, AM:

This is appeal filed by the Revenue against the order of Ld. Commissioner of Income Tax (Appeals)-XXVI, New Delhi ('Ld. CIT(A)' for short) dated 11/09/2018 in Appeal No.10675/16-17 for Assessment Year 2007-08.

2. The Revenue has taken the following grounds of appeal:

"1. The Ld. CIT(A) has erred in law and on facts by deleting the addition of Rs.16,90,45,805/- on account of capital gain on sale of property.

2. That the Ld. CIT(A) has erred in law and on facts by rejecting the valuation report which was found and seized during the search and seizure operation without any basis.

3. That the Ld. CIT(A) has erred in law and on facts in simply accepting the assessee's version that the valuation report was prepared for getting limits enhanced by the hanks without confronting the valuer and ascertaining the basis of valuation done by him.

4. That the Ld. CIT(A) has erred in law and on facts in rejecting the valuation report without making any effort to ascertain the basis on which the valuation was done by the valuer and neither examining the valuer himself nor given the opportunity to the AO.

5. The Ld. CIT(A) has erred on facts and in law by stating that the assessment should have been completed u/s 144 of the IT Act, 1961 not u/s 143(3) of the IT Act, 1961, if the AO was satisfied about the correctness or completeness of the accounts of the assessee.

6. The appellant craves to add, amend any/ all the grounds of appeal before or during the course of hearing of the appeal.”

3. Brief facts of the case are that search and seizure operation was carried out u/s 132 of the Act at the business premises of Tinna Group of company on 11/11/2010. During the course of search, certain documents were found and seized belonging to the assessee company. Thereafter, based on the materials seized belonging to the assessee after recording satisfaction for initiation of proceedings u/s 153C, notice was issued on 19/11/2012 u/s 153C to the assessee company. In response to which the return was filed declaring the same income as was declared in the original return filed and the assessment was completed u/s 153C/143(3) of the Act at total income of Rs.19,75,84,667/- by making addition of Rs.16,90,45,805/-.

4. In first appeal, the Ld. CIT(A) has deleted the additions, therefore, the present appeal is field before us by the Revenue.

5. Before us, the Ld. CIT-DR vehemently supported the assessment order and prayed for reversing the impugned order.

6. On the other hand, Ld. AR submits that during the course of search two valuation reports were found, one related to present assessee and other pertained to its sister concern M/s S.S. Horticulture Pvt. Ltd. In the case of sister concern also, based on the valuation report proceedings u/s 153C were initiated and addition was made which finally deleted by the Co-ordinate Bench of ITAT. The Co-ordinate Bench vide its order dated 14/07/2022 in ITA No.7122/Del/2018 in the case of M/s S.S. Horticulture Pvt. Ltd. has dismissed the appeal of the Revenue on merits. The relevant observations of the Co-ordinate Bench in para-10 of the order is as under:

"10. Ld. CIT(A) quashed the assessment on the basis that the assessment was not framed on the basis of any incriminating material and the valuation report as relied by the AO, did not pertain to the relevant Assessment Year. The law is well settled that for initiation of proceedings u/s 153C of the Act, there has to be some incriminating material related to the assessment year under consideration. In the present case, it is not the case where no material was available with the AO. During the course of search, a valuation report was found at the premises of third party wherein the fair market value of the property was assessed at higher value than what was disclosed by the assessee. Hence, there was a reasonable cause for the AO to initiate proceedings u/s 153C of the Act. The assessee stated that adopting of a higher fair market value by the approved valuer was for obtaining a loan from the bank. Moreover, the Stamp Valuation Authority and the DVO assessed fair market value much lower than what assessee has disclosed in the Sale Deed. The AO has not brought on record any other material suggesting that the valuation adopted by the Stamp Valuation Authority or the DVO was not correct. The AO has also not brought any other comparative

sale instances of similarly situated property to rebut the claim of the assessee. Therefore, there is no material to accept the valuation report by the approved valuer which was obtained much prior to the assessment year under consideration for sustaining the addition. So far the decision of Ld. CIT(A) for deleting the addition is justified as the AO has not brought any evidence supporting the valuation report. We do not see any reason to disturb the conclusion drawn by the Ld. CIT(A) regarding merit of the case. However, we are of the considered view that the AO was justified for initiation the proceedings u/s 153C of the Act when he was in possession of certain valuation report related to the property which was sold during the year under consideration. The appeal of the Revenue is partly allowed.”

7. We have considered the submissions of both the parties and perused the material. In the case of assessee, the addition is based on valuation report found during the search. In the case of M/s S.S. Horticulture Pvt. Ltd. (supra) also, one valuation report was found at the same premises during the search, which was the sole basis of additions. Since, the facts of the case of M/s S.S. Horticulture Pvt. Ltd. (supra) are identical to the facts of the present case before us, wherein the Co-ordinate Bench has confirmed the order of the Ld. CIT(A) by deleting the additions on merits. Therefore, by respectfully following the observations made by the Hon'ble ITAT, Delhi in the case of S.S, Horticulture Pvt. Ltd. (supra), the grounds of appeal No.1 to 5 taken in this appeal by the Revenue are dismissed on merits.

8. In the result, the appeal of the Revenue is dismissed.

Order pronounced on 12/02/2025.

Sd/-

(VIKAS AWASTHY)
JUDICIAL MEMBER

Dated: 12/02/2025

PK/PS

Sd/-

(MANISH AGARWAL)
ACCOUNTANT MEMBER

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI