

IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI "A" BENCH : MUMBAI

BEFORE SHRI B.R. BASKARAN, ACCOUNTANT MEMBER  
AND  
SHRI ANIKESH BANERJEE, JUDICIAL MEMBER

ITA No. 5519/Mum/2024 : A.Y. : 2014-15  
C.O. No. 255/Mum/2024 : A.Y. : 2014-15  
(Arising out of ITA No. 5519/M/24)

Income Tax Officer,  
Ward-12(1)(1),  
1<sup>st</sup> Floor,  
Aayakar Bhavan, M.K. Road,  
Mumbai.

Vs. Adar Hotels Private Limited,  
D-201, Triveni Building,  
32<sup>nd</sup> Road,  
Bandra West,  
Mumbai.  
PAN : AACCA9670K

**(Appellant)**

**(Respondent/Cross Objector)**

For Assessee :	Shri Dharmesh Shah & Ms. Mitali Parekh
For Revenue :	Shri Ram Krishn Kedia, Sr.DR

Date of Hearing :	13-02-2025
Date of Pronouncement :	24-02-2025

**ORDER**

**PER B.R. BASKARAN, A.M :**

These appeal of the Revenue and the Cross Objection filed by the assessee are directed against the order dated 26-08-2024 passed by the Ld CIT(A), NFAC, Delhi and they relate to the Assessment Year (AY.)

2014-15. The Revenue is aggrieved by the decision of the Ld CIT(A) in deleting the addition of Rs.4.25 crores made by the AO on account of unexplained cash credit. In the cross objection, the assessee is challenging the validity of reopening of assessment.

2. The AO received information that the assessee has purchased immovable property for a sum of Rs.4.25 crores. Hence he reopened the assessment u/s 147 of the Act. With regard to the sources for making above investment, it was explained by the assessee that a sum of Rs.1,62,75,000/- was paid by M/s Columbia Infrastructure P. Ltd., and a sum of Rs.2,95,00,000/- was paid by Shri Kuldeep Halwasiya. According to the AO, the assessee did not furnish full documents to prove the loans received from the above said parties. Accordingly, he assessed a sum of Rs.4.25 crores as unexplained cash credit.

3. Before the Ld CIT(A), the assessee explained that a MOU was entered between the assessee, M/s Columbia Infrastructure P Ltd (CIPL) and Shri Kuldeep Halwasiya on 01-03-2013. As per the MOU, both the above said parties shall contribute Rs.162.75 lakhs and Rs.262.25 lakhs respectively to the assessee for purchasing property in the name of the assessee. It was further submitted the sum of Rs.162.75 lakhs was paid to the seller in FY 2012-13 relevant to AY 2014-15. It was submitted that the above said sum of Rs.162.75 lakhs was paid by another group company named Columbia Petro Chem P Ltd (CPCL) to the seller and M/s CIPL later reimbursed the amount to CPCL. The Ld CIT(A) noticed that the above said amount of Rs.162.75 lakhs was paid to the seller in the year relevant to AY 2013-14. Accordingly, he held that the AO was not justified in adding this amount in AY 2014-15.

3.1. With regard to the amount received from Shri Kuldeep Halwasiya, it was noticed that the consideration for purchase of land was paid by the assessee from the funds received from M/s CPCL. Later, CPCL was repaid out of the funds received from Shri Kuldeep Halwasiya. In this regard, the Ld CIT(A) examined the copies of Income tax returns, the details of assets etc. of Shri Kuldeep Halwasiya and accordingly deleted the addition.

4. We heard the parties and perused the record. With regard to the amounts received from CIPL, we notice that the transactions have taken place in the year relevant to AY 2013-14. Hence, we agree with the decision of Ld CIT(A) that the AO could not have made the addition in AY 2014-15. Accordingly, we confirm the order passed by Ld CIT(A) on this issue.

5. With regard to the addition of funds received from Shri Kuldeep Halwasiya, the Revenue has contended that the Ld CIT(A) has considered new evidences without confronting them with the AO and has thus violated the provisions of Rule 46A of IT Rules. We notice that the Ld CIT(A) has examined and considered new evidences and hence, there is violation of Rule 46A of I.T.Rules. Accordingly, we are of the view that this issue requires examination at the end of the AO. Accordingly, we set aside the order passed by Ld CIT(A) on this issue and restore the same to the file of the AO for examining it afresh. After affording adequate opportunity of being heard to the assessee, the AO may take appropriate decision in accordance with the law.

6. In the cross objection, the assessee has challenged the validity of reopening of assessment. We notice that the Ld CIT(A) did not adjudicate this legal issue, even though the assessee had raised the same before him. Since we have restored the issue of addition of Rs.262.25 lakhs to the file

of the AO, we leave this legal issue open and give liberty to the assessee to urge the same before the tax authorities.

7. In the result, the appeal of the Revenue is partly allowed and the Cross Objection of the assessee is treated as allowed.

Order pronounced in the open court on 24-02-2025

Sd/-  
[ANIKESH BANERJEE]  
JUDICIAL MEMBER

Sd/-  
[B.R. BASKARAN]  
ACCOUNTANT MEMBER

Mumbai,  
Dated: 24-02-2025

TNMM

Copy to :

- 1) The Appellant
- 2) The Respondent
- 3) The CIT concerned
- 4) The D.R, ITAT, Mumbai
- 5) Guard file

By Order

Dy./Asst. Registrar  
I.T.A.T, Mumbai