

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

**Before Sh. Satbeer Singh Godara, Judicial Member
&
Sh. Manish Agarwal, Accountant Member**

ITA No. 3699/Del/2018 : Asstt. Year: 2013-14

Sunshine Infratech (P) Ltd., C/o M/s Kapil Goel Associates, F-26/124, Sector-7, Rohini, Delhi-110085	Vs	DCIT, Central Circle, Noida
(APPELLANT)		(RESPONDENT)
PAN No. AAJCS5329J		

**Assessee by : None
Revenue by : Sh. Rajesh Kumar Dhanesta, Sr. DR**

Date of Hearing: 24.02.2025	Date of Pronouncement: 24.02.2025
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ORDER

Per Satbeer Singh Godara, Judicial Member:

This assessee's appeal for Assessment Year 2013-14, arises against the CIT(A)-IV, Noida's in case No. CIT(A), Delhi-IV/10804/DCIT-CC/NOIDA/2015-16-787 dated 23.03.2018, in proceedings u/s 153C/143(3) 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 assessee pleads the following substantive grounds in the instant appeal:

"1. That Id. CIT (A) has grossly erred in confirming the order passed by Id. Assessing officer u/s 153C/143(3) of LT. Act without appreciating that said order is passed by the Assessing officer in violation of mandatory jurisdictional conditions stipulated under the I.T. Act.

1.1 That orders passed by Id. Assessing officer and Id. CIT(A) are invalid and unlawful because of lack of valid satisfaction note as required under section 153C of the Act.

1.2 That orders passed by Id. Assessing officer and Id. CIT(A) are invalid and unlawful because satisfaction note is silent on jurisdictional condition as to stated material have bearing on determination of total income of the assessee without which entire proceedings get vitiated.

1.3 That orders passed by Id. Assessing officer and Id. CIT(A) are invalid and unlawful because documents found in the search on 9/10/2013 as per applicable law under section 153C of the Act have not been proved to be belonging to the assessee in accordance with law, which make the satisfaction as invalid.

1.4 That orders passed by Id. Assessing officer and Id. CIT(A) are invalid and unlawful because purported satisfaction note is recorded for the sake mere investigation and deep scrutiny which is not in accordance with the provision of section 153C of the Act, which demand satisfaction should be recorded with certain level of certainty and cannot be left for fishing and roving inquiry.

1.5 That orders passed by Id. Assessing officer and Id. CIT(A) are invalid and unlawful because the order transferring the assessment jurisdiction u/s 127 of the Act dated 30.12.2015 is plainly passed in contradiction to the jurisdictional requirement of having positive agreement between two CIT's/CCIT's, which is patently lacking in present case.

1.6 That orders passed by Id. Assessing officer and Id. CIT(A) are invalid and unlawful because order passed u/s 153C/143(3) of the Act is dispatched on 01/04/2016, which is clearly barred by limitation as per section 153B of the Act.

2. That Id. CIT(A) grossly erred in confirming the addition of Rs. 20 Crore without appreciating that documents on which basis huge addition has been made has no evidentry value under section 292C and section 132(4A) qua assessee here in most particularly, when there is complete lack of:-

a. Statement (If any) of searched person on these documents recorded during search.

- b. *Inquiry/ response from searched person on stated seized documents during its assessment/ post search investigation.*
- c. *Any corroborative evidence supporting the contents of alleged MOU.*
- d. *Complete lack of independent inquiry by the assessing officer in present case from searched person etc.*

2.1 That addition of Rs. 20 Crore on basis of stated seized documents is invalid as assessee has been denying from the beginning the contents of alleged MOU, which denial has not been controverted by the lower authorities.

2.2 That addition of Rs. 20 crore made. Confirmed by lower authorities on basis of stated MOU, which never crystallized as such no evidence worth name has been brought so as to establish that said MOU has actually acted upon, accordingly entire proceedings ate conducted on basis of Dumb Documents, contents of which has never been proved to be acted upon.

2.3 That addition of Rs. 20 crore made. Confirmed by lower authorities on the basis of stated MOU, is purely hypothetical addition made against the principal that only real income can be taxed.

In view of the do many holes, the action of Ld. Assessing officer in making addition of Rs. 20 Crore as conformed by Ld. CIT(A) to say the least is preposterous."

4. Learned Sr. DR vehemently argues in light of the assessment findings that the Assessing Officer herein had rightly made addition of Rs.20 Cr. in the assessee's hands in furtherance to the relevant incriminating material found/seized in the course of search action carried out on 09.10.2013. We note in this backdrop that the learned Assessing Officer's assessment dated 29.03.2016 has itself reproduced the corresponding contents of the seized material at pages 3 onwards continuing upto page 10 wherein none of the parties in question appears to have put in the signature(s) so as to

constitute valid agreement make them liable for the corresponding stipulates therein.

5. This being the clinching fact, we hereby quote CIT Vs. Girish Chaudhary (2008) 296 ITR 619 (Delhi) that no addition could be made based on such a dumb document wherein none of the parties have even not put in their respective signature. The impugned addition stands deleted in very terms therefore.

6. All other pleadings on merit stand rendered academic.

7. This assessee's appeal is allowed.

Order Pronounced in the Open Court on 24/02/2025.

Sd/-
(Manish Agarwal)
Accountant Member

Sd/-
(Satbeer Singh Godara)
Judicial Member

Dated: 24/02/2025

Subodh Kumar, Sr. PS

Copy forwarded to:

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

ASSISTANT REGISTRAR