

**THE INCOME TAX APPELLATE TRIBUNAL  
DEHRADUN BENCH "DB", NEW DELHI  
BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL  
MEMBER AND  
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**  
(Through Video Conferencing)

**ITA No. 29/DDN/2024**  
(Assessment Year: 2013-14)

<b>Shri Jitender Singh,</b> Village-Jagjeetpur, PO Kanghal, Haridwar	Vs.	DCIT, Circle, Haridwar
(Appellant)		(Respondent)
<b>PAN: AHAPS4448R</b>		

Assessee by :	Dr. Rakesh Gupta, Adv Shri Saksham Aggarwal, Adv
Revenue by:	Shri A. S. Rana, Sr. DR
Date of Hearing	21/03/2025
Date of pronouncement	23/04/2025

O R D E R

**PER M. BALAGANESH, A. M.:**

1. The appeal in ITA No. 29/DDN/2024 for AY 2013-14, arises out of the order of the Id. Commissioner of Income Tax (Appeals)-3, Noida [hereinafter referred to as 'Id. CIT(A), in short] dated 29.01.2024 against the order of assessment passed u/s 143(3) r.w.s 254 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 22.09.2021 by the Assessing Officer, DCIT, Circle, Dehradun (hereinafter referred to as 'Id. AO').
2. The only effective issue to be decided in this appeal is as to whether the Id CIT(A) was justified in confirming the action of the Id AO in making addition on account of unexplained investment in hospital building in the facts and circumstances of the instant case.

3. We have heard the rival submissions and perused the material available on record. The assessee is a labour supply contractor and the return for AY 2013-14 was filed on 28.09.2013 declaring total income of Rs. 8,97,592/-. On 05.12.2013 a survey u/s 133A of the Act of the Act was conducted after which the assessee filed revised return on 24.02.2014 showing total income of Rs. 1,47,94,720/-. The Id AO observed during the year the assessee was running a hospital called Jan Jeevan Hospital wherein, he had declared a loss of Rs. 10,27,975/-. During the course of assessment proceedings, the Id AO found a partnership deed was constituted for running Jan Jeevan Hospital on 01.07.2012 but the same was dissolved on 15.08.2012. The Id AO observed that during the course of survey it came to knowledge that assessee had made huge investment in the hospital building. The assessee admit a having investment of Rs. 69 lakhs in the construction of building and surrendered this amount along with investment in machinery and equipment for the hospital for AY 2013-14. The total surrender made was Rs. 1.50 crores. In order to verify the actual cost of construction, the Id AO referred the matter to the Id Departmental Valuation Officer (DVO) u/s 142A of the Act. the Id DVO estimated the value of the building at Rs. 4,08,10,300/-, once the assessee has surrendered Rs. 1 crores on this account. The assessee was show caused as to why the difference in value of cost of construction of Rs. 3,08,10,300/- be not brought to tax as unexplained investment u/s 69 of the Act. The assessee responded that the DVO had applied CPWD rates as against adoption of local PWD rates. Further, determination submitted by DVO by not viewed the rooms from inside and that all rooms were ordinary and fixtures were of simple category whereas the Id DVO had taken a very high rates @24063/ sq mtr in estimating the cost of building. Accordingly, the rate adopted by the Id DVO was objected to by the assessee as very excessive. Further, the assessee had not been given the benefit of self supervision charges @7.5% of the value which is liable for reduction from the

determined value. The Id AO observed that out of surrendered amount, the only Rs. 70,60,117/- pertains to the hospital building and accordingly added the remaining sum of Rs. 3,37,50,183 (408,10,300-70,60,117) as unexplained investment u/s 69 of the Act. This matter in the first round travelled up to the level of this Tribunal wherein, this Tribunal in ITA No. 5471/Del/2017 dated 15.01.2020 restored this issue back to the file of the Id AO in its entirety for de novo adjudication in accordance with the law. In the second round of proceedings, the Id AO observed that no details were forthcoming from the assessee and even the books of account were not produced together with bills, vouchers and supporting documentary evidence. The assessment ultimately got completed u/s 143(3) read with Section 254 of the Act on 22.09.2021 adding a sum of Rs. 3,06,89,410/- as unexplained investment u/s 69 of the Act in hospital building after giving reduction of Rs. 30,60,773/- towards self supervision charges @7.5%. The assessee preferred an appeal before the Id CIT(A).

4. Before the Id CIT(A) in the second round the assessee apart from various submissions also challenged the validity of even making reference to the Id DVO for determining the cost of construction by stating that the books of account were not rejected. This objection is primarily invalid in view of the fact that the books of account were indeed rejected by the Id AO and profit estimates @8%. Further, the assessee made a objection that the provision of Section 69 of the Act cannot be made applicable as it is not the case of the revenue that assessee had made investment which are not recorded in the books of account and accordingly, there could not be any valid reference made to Id DVO. It is pertinent to note that the assessee had not disclosed the investment made in the hospital building either in the books of account or in the return of income. Only pursuant to the survey conducted on the assessee, the assessee surrendered a sum of Rs. 70,60,117/- and offered a

sum towards investment in hospital building in the revised return filed on 24.02.2014. Further, the assessee even justified with supporting bills, vouchers and documentary evidence as to how the surrendered made by him in the sum of Rs. 70,60,117 towards investment in the hospital building to be justified. In this circumstance, no fault could be attributed on the action of the Id AO to make a reference to the Id DVO for determining the fair market value of cost of construction u/s 142A of the Act.

5. As stated supra the very basis of reference to valuation officer cannot be objected to in the instant case. However, we are in agreement with the arguments advanced by the Id AR that Id DVO ought to have adopt State PWD rates as against central PWD rate while determining the value of cost of construction. The deduction towards self supervision charges @7.5% has already been given by the Id AO himself. Hence, we deem it fit and appropriate and in the interest of justice and fairplay we restore this issue again to the file of the Id AO with a direction to make a reference to Id DVO for re-determining the value of property by adopting State PWD rates instead of Central PWD rates. We are making it very clear that the reduction already granted to the assessee should not be disturbed in the fresh round of proceedings. With these directions, the grounds raised by the assessee are allowed for statistical purposes.

6. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 23/04/2025.

-Sd/-  
**(SATBEER SINGH GODARA)**  
**JUDICIAL MEMBER**

-Sd/-  
**(M. BALAGANESH)**  
**ACCOUNTANT MEMBER**

Dated: 23/04/2025  
A K Keot

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR  
ITAT, New Delhi