

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

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER**

ITA No.2786/Del/2022
Assessment Year: 2016-17

Sh. Balkishan Rathi, H. No. 10, Rajpur Khurd, Maidan Garhi, Delhi	Vs.	ACIT, Central Circle-14, New Delhi
PAN: AFKPR6580F		
(Appellant)		(Respondent)

Assessee by	Sh. Sunil Pathak, Adv.
Department by	Sh. Rajesh Kumar, CIT(DR)

Date of hearing	13.05.2025
Date of pronouncement	13.05.2025

ORDER

PER SATBEER SINGH GODARA, JM

This assessee's appeal for assessment year 2016-17, arises against the Commissioner of Income Tax (Appeals)-28 [in short, the "CIT(A)"], New Delhi's order dated 21.09.2022 passed in case no. 26/11078/2015-16, involving proceedings under section 153C/143(3) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act').

2. Heard both the parties. Case files perused.
3. We note at the outset that both the learned lower authorities have made section 69C unexplained expenditure addition of Rs. 62.12 lakhs, in the course of assessment framed in his case on 29.12.2021 and upheld in the lower appellate discussion. Learned CIT(DR) places reliance on the Assessing Officer's as well as the lower appellate's discussion going by the alleged seized material (annexure A-11 extracted at page 3 in the assessment order) to buttress the point that the same indeed deserves to be upheld in the assessee's hands.
4. We have given our thoughtful consideration to the assessee's and respective vehement rival submissions reiterating their respective stands. There could be hardly be any dispute between the parties that the department had carried out its search action in Nagpal group of cases on 10.01.2018. The department seized the annexure A-11 indicating the assessee to have made interest payments to the above searched person. This is what resulted in the impugned addition being made in the assessee's hands. We find no reason to sustain the impugned addition. We make it clear first of all that so far as the Revenue's reliance on presumption of

correctness of the contents of the seized material under section 292C is concerned, the same admittedly applies only to the searched parties than a third person under sub-section (1) thereof and in light of stricter interpretation going by Commissioner vs. Dilip Kumar And Co. & Ors. [2018] 9 SCC 1 (SC) (FB). This indeed is coupled with the fact that the learned lower authorities have solely gone by the statement of Mr. Prateek Nagpal than having got substantiated the same by way of due corroboration as per the relevant material. And also that the assessee has further not been granted any opportunity to cross-examine the above searched person as well which indeed goes against their lordship's landmark decision in Andaman Timber Industries vs. Commissioner of Central Excise, Kolkata-II (2015), 62 taxmann.com 3 (SC). We accordingly accept the assessee's instant sole substantive ground challenging the impugned addition of Rs.62.12 lakhs which is directed to be deleted. Ordered accordingly.

5. This assessee's appeal is allowed.

Order pronounced in the open court on 13th May, 2025

Sd/-
(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

Dated: 13th May, 2025.

RK/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi