

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

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

ITA Nos.1691 & 1692/Del/2023
Assessment Years: 2017-18 & 2018-19

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| M/s. DPL Farms and Builders P. Ltd., 302, E-10-12, Jawahar Park, Triveni Complex, Vikas Marg, Laxmi Nagar, New Delhi | Vs. | ACIT, Central Circle-3, New Delhi |
| PAN: AACCD1657P | | |
| (Appellant) | | (Respondent) |

With

ITA Nos.1693 & 1694/Del/2023
Assessment Years: 2017-18 & 2018-19

| | | |
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| M/s. DPL Infrastructure P. Ltd., 4, South Ganesh Nagar, Patparganj, New Delhi | Vs. | ACIT, Central Circle-3, New Delhi |
| PAN: AAECD2054J | | |
| (Appellant) | | (Respondent) |

With

ITA Nos.1695 & 1696/Del/2023
Assessment Years: 2017-18 & 2018-19

| | | |
|---|------------|---|
| M/s. DPL Developers Pvt. Ltd., 46, South Ganesh Nagar, Patparganj, New Delhi | Vs. | ACIT, Central Circle-3, New Delhi |
| PAN: AAECD2228G | | |
| (Appellant) | | (Respondent) |

| | |
|---------------|----------------------------|
| Assessee by | None |
| Department by | Ms. Pooja Swaroop, CIT(DR) |

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|-----------------------|------------|
| Date of hearing | 23.06.2025 |
| Date of pronouncement | 23.06.2025 |

ORDER

PER SATBEER SINGH GODARA, JM

These three assessees', namely, M/s. DPL Farms and Builders P. Ltd., M/s. DPL Infrastructure P. Ltd. and M/s. DPL Developers Pvt. Ltd. have filed their instant twin appeals each ITA Nos. 1691 to 1696/Del/2023 for assessment years 2017-18 and 2018-19 against the Commissioner of Income Tax (Appeals)-23 [in short, the "CIT(A)"], New Delhi's separate orders, all dated 31.03.2023, passed in case nos. CIT(A), Delhi-23/10378/2016-17, Delhi-23/10291/2017-18, Delhi-23/10391/2016-17, Delhi-23/10289/2017-18; Delhi-23/10392/2016-17, Delhi-23/10290/2017-18; respectively involving proceedings under section 153A of the Income-tax Act, 1961 (hereinafter referred to as 'the Act').

2. Cases called twice. None has put in appearance today at the assessees' behest nor on all the previous ten occasions. We thus proceed *ex-parte* against these three assessees.

3. It is at this stage learned CIT(DR), Ms. Pooja Swaroop invites our attention to the "lead" appeal ITA No. 1691/Del/2023 filed by

the first and foremost assessee M/s. DPL Farms and Builders Pvt. Ltd. in assessment year 2017-18 raising the following substantive grounds:

“1. The Ld CIT(A) has erred in confirming the order of the Assessing Officer in assessing the income at Rs. 1,31,07,912 as against the returned income of (-) 35,720 thereby confirming the addition of Rs. 1,31,43,632.

2. The Ld. CIT(A) has erred in confirming the addition made by the Ld. A.O for Rs. 1,31,43,632/- as unaccounted business receipts in cash without any reference of section of The Income Tax Act, 1961, when this alleged cash transaction is not proved in the course of search or post search investigation.

3. The Ld. CIT(A) has erred on the facts and circumstances of the case and in law in ignoring and rejecting the explanations and submissions made in this regard for addition of Rs. 1,31,43,632/- on account of rough excel sheets which are not substantiated by any other corroborative evidence and which is highly, unjustified, uncalled for and bad in law.

4. The Ld. CIT(A) has erred in law and fact in confirming the finding of the AO in not accepting that the fictional receipt cannot be deemed to be a receipt, in the absence of any cogent corroborative material to support the factum of actual receipt.

5. The order of Ld CIT is against law, facts and circumstances of the case.

6. The appellant craves leave to add, alter, amend, modify or delete all or any of the Grounds of appeal on or before the date of hearing of appeal”

4. The Revenue’s case accordingly is that both the learned lower authorities have rightly added the impugned unaccounted business receipts in the assessee’s hands forming subject matter of adjudication, in assessment order dated 25th September, 2021 and upheld in CIT(A) lower appellate discussion reading as under:

“4. I have considered the material on record including written submissions of the AR of the appellant filed in course of appellate proceedings. I have perused the assessment order u/s 153A of the Act. In the present appeal the appellant has raised grounds of appeal for both the A.Y. 2017-18 and 2018-19.

5. The addition for both the years has been made on the basis of a common document seized from the premise of the appellant during the course of search. The issue of addition is identical for both the years, however the quantum of addition for the A.Y. 2017-18 is Rs. 1,31,43,632/- and the quantum of addition for the A.Y. 2018-19 is Rs. 91,82,200/-. As common issues are involved for both the years, therefore the appeal Commissioner for both the years are taken up together. All the grounds of appeal for the AY 2017-18 are relating to addition of Rs. 1,31,43,632/- and for the AY 2018-19 are related to addition of Rs. 91,82,200/-. Therefore, all the grounds are taken up together.

The basic facts of the case are as under: -

6. Search and seizure proceedings under section 132 of the Income Tax Act, 1961, (hereinafter 'the Act') was conducted in the case of Shri Dinesh Tyagi/ Sh. Pradeep Tyagi/ M/s Dkrrish Builders Pvt. Ltd. & others on 16.05.2018. The case of the assessee was also covered in operation u/s 132 of the Income Tax Act, 1961.

7. The case of the assessee was centralized with this charge by the Pr. Commissioner of Income Tax-03, New Delhi, vide order u/s 127 circulated vide letter F.No. Pr.CIT-03/Centralization/127/2019-20/1428 dated 23.09.2019. The copy of the same served to the assessee.

8. Notice u/s 153A of the Income Tax Act, 1961 dated 15.01.2020 has been issued & duly served to the assessee for furnishing the return of Income. In response to notice u/s 153A, the assessee filed a letter on 08.02.2021 along with copy of RTI filed u/s 139 of the Act and requesting that the return u/s 139 of the act may be treated as the return filed under section 153A of the Act for A.Y. 2017-18 and 2018-19.

9. During the course of search, the document in excel sheet was found. The same has been reproduced in the assessment order also. The contents of the document are as under: -

DPL FARMS AND BUILDERS PVT. LTD.
Sales Detail for the year 2016-17

| S.No. | Month | Area | Rate | Total Cost | Bank | Other |
|-------|--------------|-------------|----------|-----------------|----------------|-----------------|
| 1 | April | 0 | 0 | 0 | 0 | 0 |
| 2 | May | 0 | 0 | 0 | 0 | 0 |
| 3 | June | 0 | 0 | 0 | 0 | 0 |
| 4 | July | 0 | 0 | 0 | 0 | 0 |
| 5 | Aug | 0 | 0 | 0 | 0 | 0 |
| 6 | Sep | 2016 | 3800 | 7660800 | 3880000 | 3780800 |
| 7 | Oct | 2016 | 3800 | 7660800 | 2082000 | 5578800 |
| 8 | Nov | 0 | 0 | 0 | 0 | 0 |
| 9 | Dec | 0 | 0 | 0 | 0 | 0 |
| 10 | Jan | 2016 | 3800 | 7660800 | 3876768 | 3784032 |
| 11 | Feb | 0 | 0 | 0 | 0 | 0 |
| 12 | Mar | 0 | 0 | 0 | 0 | 0 |
| | Total | 6048 | 0 | 22982400 | 9838768 | 13143632 |

DPL FARMS AND BUILDERS PVT. LTD.
Sales Detail for the year 2017-18

| S.No. | Month | Area | Rate | Total Cost | Bank | Other |
|-------|--------------|-------------|----------|-----------------|----------------|----------------|
| 1 | April | 1008 | 3800 | 3830400 | 1940000 | 1890400 |
| 2 | May | 0 | 0 | 0 | 0 | 0 |
| 3 | June | 0 | 0 | 0 | 0 | 0 |
| 4 | July | 1008 | 3650 | 3679200 | 1041000 | 2638200 |
| 5 | Aug | 1600 | 3650 | 5840000 | 3076800 | 2763200 |
| 6 | Sep | 0 | 0 | 0 | 0 | 0 |
| 7 | Oct | 0 | 0 | 0 | 0 | 0 |
| 8 | Nov | 1008 | 3800 | 3830400 | 1940000 | 1890400 |
| 9 | Dec | 0 | 0 | 0 | 0 | 0 |
| 10 | Jan | 0 | 0 | 0 | 0 | 0 |
| 11 | Feb | 0 | 0 | 0 | 0 | 0 |
| 12 | Mar | 0 | 0 | 0 | 0 | 0 |
| | Total | 4624 | 0 | 17180000 | 7997800 | 9182200 |

10. The computer system from which the data was seized belonged to the appellate company and was being used by Shri Manoj Kumar Singh his employee. Shri Singh was an old employee of the company and was working in the capacity of Accounts Manager since 2008 in the DPL Group of Companies. In his statement under oath, Shri Manoj Kumar Singh affirmed that he was in the service of DPL Group since 2008 and working in the capacity of Account Manager.

11. The above referred evidences were confronted to Shri Manoj Kumar Singh. In his reply in statement under oath u/s 131, he has stated as under:-

Q23. I am showing you a printout of a sheet in an MS Excel file titled "Data 27-11-17.xls found in your office computer which has been impounded as page 65 in Annexure-1. It is seen that you have emailed the same file from your account mks1970@gmail.com to Mr. Kamal Dutta at k.duttadpl@gamil.com on 09.01.2018. Please confirm whether

you know of this file and explain the contents of Sheet 1 of the file.

Ans. Yes, I recognize this file. It was prepared on the instructions of Mr. Kamal Dutta for the purpose of availing loans. The format for this file was given by a loan agent Mr. Vinod Kumar Pandit (Ph. No. 999308899 Email counsellor.India2005@gmail.com). The file contains 2 sheets. "Sheet 1" contains monthly sales figures for FY 2017-18 for each company which have been named as 'DPL-B' (DPL Builders Pvt. Ltd.), 'DPL-F' (DPL Farms & Builders Pvt.) and 'DPL-N' (Nature Retreat which is executed through 2 companies DPL Developers Pvt. Ltd. and DPL Infrastructures Pvt. Ltd.). The figures under 'Cheque column are amounts received in cheque which have been taken from Tally ERP. The figures under 'Cash' were provided by Mr. Kamal Dutta and filled on his instructions. Again as per his instructions, the file was emailed to Mr. Kamal Dutta."

Q24. The file "Data 27-11-17.xls" was found in a folder in your office desktop computer titled "Indiabuilds - Pandit G". The same folder contains another MS Excel sheet titled "SALES DETAILS DPL GROUP, 2016-17 AND 2017-18" which is being printed and enclosed as Exhibit-A (pages 1-4) to this statement. Please explain the contents.

Ans. This file contains month-wise sales figures of FY 2016-17 and 2017-18 in DPL companies. This was also prepared for availing loans. The sheets in the files are for the sales in the 4 companies of the DPL group DPL Builders, DPL Farms, DPL Infrastructure and DPL Developers.

The tables in the sheets contain figures in columns 'TOTAL COST', 'BANK' and 'OTHER'. The column TOTAL COST is the total cost of the unit calculated from the area and rate. The Column BANK is the amount received by cheque which is reflected in Tally. The column OTHER refers to the cash component which is the difference between total cost and cheque amount. However the rate in this file is not exact as it is inflated for the purpose of availing higher credit or loans by showing higher figure of our sales.

12. The AO issued show cause notice to the appellant on 19.05.2021 and confronted the appellant on the impugned issue. The show cause notice for the AY 2017-2018 is as under:-

.....1. As per Annexure A-10 (MAN-1), Manoj Singh Desktop, One Excel Sheet was extracted/found from a Hard Disk which containing sales details related to M/s DPL Farms & Builders Pvt. Ltd. As per this Excel Sheet total earnings of M/s DPL Farms & Builders Pvt. Ltd. during the F.Y. 2016-17 was of Rs. 2,29,82,400/- out of which amounting to Rs. 98,38,768/- was received through cheque & Rs. 1,31,43,632/- was received in cash. On perusal of your ITR for A.Y. 2017-18, it is found that you have declared only an income of Rs. 98,38,768/- and under reported your income in the ITR for A.Y. 2017-18 by an amount of Rs. 1,31,43,632/-.

Please explain the as to why the difference amount of Rs. 1,31,43,632/- should not be treated your income and added back to your total income.”

The show cause notice for the AY 2018-19 is as under:

.....1. As per Annexure A-10 (MAN-1), Manoj Singh Desktop, One Excel Sheet was extracted/found from a Hard Disk which containing sales details related to M/s DPL Farms & Builders Pvt. Ltd. As per this Excel Sheet total earnings of M/s DPL Farms & Builders Pvt. Ltd. during the F.Y. 2017-18 was of Rs. 1,71,80,000/- out of which amounting to Rs. 79,97,800/- was received through cheque & Rs. 91,82,200/- was received in cash. On perusal of your ITR for A.Y. 2018-19, it is found that you have declared only an income of Rs. 99,36,184/- which means you have under reported your Income in the ITR for A.Y. 2018-19 by an amount of Rs. 72,43,816/-

Please explain the as to why the difference amount of Rs. 72,43,816/- should not be treated your income and added back to your total income.”

14. In response, the appellant had furnished his reply. Not satisfied with the explanation of the appellant, the AO made addition of Rs. 1,31,43,632/- as sales not accounted in the books of accounts for AY 2017-2018 and Rs. 91,82,200/- for the AY 2018-2019.

15. Aggrieved with the addition made, the appellant has filed the present appeal. The appellant during the course of appellate proceedings vide his letter dated 09.01.23 has made various arguments. The main contention of the appellant are summarized as under:-

1. *Electronic records without corroborative evidence found in course of assessment proceedings or search proceedings is not an admissible.*
2. *Extrapolation of sale in absence of any incriminating material found in course of search, no Inference of suppression of receipts could be possible.*
3. *Suspicion cannot take the place of proof when there is no corroborative evidence in favour of the conclusion arrived at by the Investigation wing or Assessing Officer.*
4. *No addition can be made on the basis of dumb document or loose sheet.*
5. *The statement of a third party cannot be utilised against assessee as evidence to frame assessment without cross examination, there was a gross violation of principles of natural justice.*
6. *Printouts of data stored, or any other form of electro-magnetic data storage device cannot be treated as books of account of the assessee.*

16. *The above contentions of the appellant has been examined. The Impugned documents were found from the premise of the appellant in the computer system owned by it. It is not a case wherein some evidence was gathered from some third party that was unrelated to the appellant. The impugned document was found from the computer in the office of the appellant. The said computer was used by the employee Shri Manoj Kumar Singh who was one of the key person of the appellant group. The said evidence was downloaded and confronted during the course of search to Shri Manoj Kumar Singh who explained the contents of the document.*

17. *It is to be noted that the appellant during the course of assessment proceedings did not deny that the said evidences do not pertain to him. The entire content of the impugned documents were explained by the appellant during the course of assessment proceedings, however the appellant denied that he has not received any amount of cash as evident in the impugned document. Therefore, the impugned document pertains to the appellant.*

18. *The appellant argued that the impugned document is a dumb document. This argument of the appellant is not acceptable. The document contains various details like the month, the area sold, the rate, the total cost, receipt by bank and receipt by other mode. The details in the bank column is matching with the accounts of the appellant and the appellant has also confirmed the same to be true. As the amount was received by way of banking transaction, the appellant could not have denied the transaction recorded in the impugned document. However, the amount in the column "OTHER"*

was denied by the appellant as apparently this was in respect of receipt of cash. It is also to be noted that the same document is claimed to have been given to the bank/financial institution by the appellant for taking loan. If the document were a dumb document, as asserted by the appellant, then there was no need for the appellant to furnish such dumb document to the bank for availing loan. Further it may be noted that during the course of search, Shri Manoj Kumar Singh explained each and every entry in the impugned document. Therefore, it is held that the document is not a dumb document.

19. The impugned document reveals the receipt of consideration in cash by the appellant. The appellant during the course of appellate proceedings stated that the impugned document was prepared for the bank/financial institution for availing higher loan and it was argued that the figure of cash was inflated to take higher credit from the bank. Thus, the appellant claims to be dishonest with the bank but honest with the Income Tax. It is not known as to why the appellant needs to be selectively dishonest or selectively honest. The appellant has not been able to place on record any evidence to show that the documents submitted for taking loan was fabricated and that he has not received any money in cash as shown in the impugned documents.

20. The appellant during the course of appellate proceedings made an argument that Shri Manoj Kumar Singh during the course of search in his statement under oath had stated that there was no cash in the impugned document. However, such an argument of the appellant is factually incorrect. Shri Manoj Kumar Singh never denied that the amount represented in column "OTHER" is fictitious. He stated that the rate is not exact. However, the appellant has not been able to prove as to what was the exact rate in case the rate mentioned in the in the impugned document is not fully correct.

21. As the rate was not exact, therefore it may have bearing on the amount in the column "OTHER" if the statement of Shri Manoj Kumar is believed to be completely true. During the course of assessment proceedings, the appellant never stated as to what was the exact rate. During the course of appellate proceedings also the appellant failed to either state or produce to any document to show that the rate mentioned in the impugned document was different from the one written in the document and also given to the bank for availing loan. Further at no point of time the appellant could furnish any evidence to show that the exact rate and the rate mentioned in the document was different. Therefore, the argument of the appellant is without any sound basis and lacks support from evidences.

22. Shri Manoj Kumar Singh the author of the impugned document has never retracted from his statement. The appellant also has never

retracted from the statement of Shri Manoj Kumar Singh. During the course of investigation proceedings, the appellant was given opportunities to verify the genuineness of the transactions mentioned in the excel sheet. However, the appellant company did not appear before the investigating officer and state the truth (if it was contrary to the one recorded in the impugned document), ignoring the summons issued to him.

23. In his statement, Shri Manoj Kumar Singh, identified the column other as receipt of cash by the appellant. Such statement has been reproduced above.

24. The presumption of law in respect of Impugned document is that if a portion of the transaction is correct, then the other portion of the transaction recorded in the document is also correct. In this case, the appellant has not denied that the amount by way of cheque is incorrect. The appellant has selectively denied the cash transaction. It is also to be noted that Shri Manoj Kumar Singh entered the data of cheque after verifying it from the tally data and the amount of cash (column- other) from Shri Kamal Dutta. The same has been stated by the Shri Manoj Kumar Singh in his statement.

25. Therefore, it is held that the amount mentioned in 'column-other' is receipt of cash/on money transactions made by the appellant company. Apparently the same has not been disclosed in the return of income by the appellant. The receipt in cash is therefore, liable to be added to the total income of the appellant.

26. There is no reason to differ from the findings of the Assessing Officer. The findings of the AO in respect of receipt of cash is based upon the impugned document that was confronted to the author of the document. The document is self-speaking. The author of the document has himself accepted the cash component in the transaction entered into by the appellant and recorded in the impugned document.

27. In view of the above discussion, the addition made by the Assessing Officer for A.Y 2017-18 amounting to Rs.1,31,43,632/- and for the A.Y 2018-19 amounting to Rs.91,82,200/- is confirmed.”

5. We have given our thoughtful consideration to the assessee's pleadings all along and Revenue's foregoing vehement contentions supporting the impugned unaccounted business receipts addition.

A perusal of the instant “lead” case file reveals that the learned departmental authorities had carried out the relevant search in question on 16th May, 2018 in the assessee’s cases wherein it found/seized excel sheet “A-10” indicating the impugned cash receipts in real estate business. Learned Assessing Officer’s assessment order dated 25.09.2021 herein suggests that all this followed the assessee’s authorized person’s statements recorded as well which could not be rebut the statutory presumption of correctness of the above seized material entries going by section 292C of the Act. This is indeed coupled with the fact that the assessee all along has not been able to explain the above unaccounted business receipts so as to rebut both the learned lower authorities’ findings based on the seized documents under section 2(12A) r.w.s. 2(22AA) of the Act.

6. That being the clinching case, we are of the considered view that the assessee’s pleadings herein hardly deserve to be accepted; and, therefore, we conclude that both the learned lower authorities have rightly made the impugned addition of Rs.1,31,43,632/- as unaccounted business receipts in its hands. Ordered accordingly.

This assessee's "lead" appeal ITA No. 1691/Del/2023 fails therefore.

7. Same order to follow in these three assessee's remaining five appeals ITA No. 1692 to 1696/Del/2023 as well since involving identical set of facts and grounds; as the case may be.

8. To sum up, these three assessee's instant six appeals ITA Nos. 1691 to 1696/Del/2023 are dismissed in above terms. A copy of this common order be placed in the respective case files.

Order pronounced in the open court on 23rd June, 2025

Sd/-
(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

Dated: 23rd June, 2025.

RK/-

Copy forwarded to:

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

Asst. Registrar, ITAT, New Delhi