

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "E": NEW DELHI**

**BEFORE Ms. MADHUMITA ROY, JUDICIAL MEMBER  
AND  
SHRI NAVEEN CHANDRA, ACCOUNTANT MEMBER**

**ITA Nos. 2495 & 2496/DEL/2023  
Asstt. Yrs.: 2017-18 & 2018-19**

<b>Tristar Hospitalities, H. No. 5/95, 27A &amp; 27B Industrial Area, Shivaji Marg, New Delhi-110015. PAN: AAJFT 5837 D</b>	<u>Vs</u>	ACIT, Central Circle-16, New Delhi.
<b>APPELLANT</b>		<b>RESPONDENT</b>

**ITA Nos. 2453 & 2465/DEL/2023  
Asstt. Yrs.: 2017-18 & 2018-19**

ACIT, Central Circle-16, New Delhi.	<u>Vs</u>	<b>Tristar Hospitalities, H. No. 5/95, 27A &amp; 27B Industrial Area, Shivaji Marg, New Delhi-110015. PAN: AAJFT 5837 D</b>
<b>APPELLANT</b>		<b>RESPONDENT</b>

<b>Assessee represented by</b>	Shri Neeraj Jain CA; & Shri P.K. Mishra, CA
<b>Department represented by</b>	Ms. Rishipal Bedi, CIT(DR)
<b>Date of hearing</b>	30.06.2025
<b>Date of pronouncement</b>	04.07.2025

**ORDER****PER BENCH:**

The instant cross appeals, preferred by the assessee as well as the Revenue, are directed against separate orders both dated 30.06.2023 passed by the Ld. CIT(A)-26, New Delhi, in appeal No. 10706/2016-17 & 10498/2017-18 for A.Y. 2017-18 & 2018-19 respectively, arising out of the orders dated 08.10.2021, passed by the ACIT, Central Circle-16, Delhi, under Section 153C of the Income Tax Act, 1961 (hereinafter referred to as “the Act”) for the Assessment Years 2017-18 & 2018-19 respectively. Facts in both the assessment years under consideration being common, all these appeals were heard together and are being disposed of by a common order for the sake of convenience. First we take up cross appeals for A.Y. 2017-18.

**ITA No. 2495/Del/2023 [A.Y. 2017-18]****[Assessee’s Appeal]**

2. Grounds raised by the assessee read as under:

*“1. That the order of learned Commissioner of Income Tax (Appeals) is bad in law as well as on the facts and in the circumstances of the case.*

*2. That the learned Commissioner of Income Tax (Appeals), in para 5 of the order, has erred in facts and law in holding that ‘it is evident from the facts of the case and submissions made by the applicant that several documents*

were found from the laptop and seized/impounded during the course of search which are incriminating in nature have bearing on the total income of the appellant' and accordingly dismissed ground nos. 1 to 4 raised before him.

3. That the learned Commissioner of Income Tax (Appeals), in para 6 of the order, has erred in facts and law in holding that 'the appellant was provided sufficient opportunity by way of issuing various notices on different dates starting from 26.02.2021 to 31.08.2021 and a show cause notice dated 28.08.2021 was also served to the assessee' and accordingly dismissed ground no. 5 raised before him.

4. That the learned Commissioner of Income Tax (Appeals), in para 7 of the order, has erred in estimating the unrecorded business receipts of Rs. 4,74,11,922/- on the basis of suppression factor applied by the learned assessing officer on the turnover as per books.

5. That the learned Commissioner of Income Tax (Appeals) has erred in estimating the net profit @ 10% on estimated unaccounted suppressed sales and sustaining the addition to the extent of Rs. 47,41,192/-

**ITA No. 2453/Del/2023 [A.Y. 2017-18]**

[Revenue's Appeal]

Grounds raised by the Revenue read as under:

*"1. Whether on facts of the case and in law, the Ld. CIT(A) has erred in restricting the addition to Rs. 47,41,192/- (@ 10% of Rs. 4,74,11,922/-), when the assessee has failed to produce any documents to refute suppressed business receipts and unrecorded business receipts.*

*2. Whether on facts of the case and in law, the Ld. CIT(A) has erred in not upholding the entire addition amounting to Rs. 4,74,11,922/-, as the assessee could not produce any document regarding suppressed business receipts and related expenditure incurred on earning these unrecorded business receipts.*

*3. Whether on facts of the case and in law, the Ld. CIT(A) is correct in estimating the unaccounted income of the assessee at 10% of total undisclosed receipts whereas no such evidence is available on record that the assessee had incurred any expenditures to earn the above receipts.*

*4. (a) Whether on law and facts of the case, the order of the Ld. CIT(A) is erroneous and not tenable in law and on facts.*

*4. (b) The appellant craves leave to add, alter or amend any / all of the grounds of appeal before or during the course of the hearing of the appeal.”*

3. Facts of the case, in brief, are that a Search & seizure operation u/s 132 of the Act was conducted in the case of Kohli Tent Group of cases on 03.05.2018. During assessment proceedings in the case of searched persons, the Ld. AO recorded his satisfaction that certain informations contained on the material seized in the cases of searched persons pertain to M/s Tristar Hospitality, the person other than the searched person. The Ld. AO of the searched persons recorded his satisfaction dated 09.02.2021 and handed over the seized materials to the Ld. AO of the other person i.e. M/s Tristar Hospitality, the assessee before us. After arriving at satisfaction that the seized documents belonged to the assessee firm and had a bearing on the determination of total income of the assessee company, satisfaction note was recorded by the Ld. AO of the assessee and assessment proceedings were initiated in the case of the assessee under Section 153C r.w.s. 153A of the Act. Pursuant to Notice u/s 153C of the Act the assessee filed its return of Income on

17.02.2021 for A.Y. 2017-18 declaring total income of Rs.3,76,560/- as originally filed under Section 139 on 30.10.2017. The assessee complied with the statutory notices issued by the Ld. AO under Section(s) 143(2)/142(1) of the Act. Reassessment under Section 153C was finalized at Rs. 4,77,88,282/- upon making additions in the following manner:

i	Return income as per Original Return u/s 139 of the I.T. Act	Rs. 3,76,560
ii	All adjustment made in earlier assessments/reassessments (u/s 143(3), 147, 153A, 153C etc.), rectification/ appellate order/ revisions etc.	Nil
iii	Income as per ITR filed u/s 153C	Rs. 3,76,560
iv	Differential/additional income voluntarily declared in ITR filed u/s 153C of the I.T. Act	Nil
v	Additon on account of suppressed business receipts	Rs. 1,06,36,652
vi	Additoin on account of unrecorded business receipts	Rs. 3,45,21,325
vii	Addition on account of unrecorded business receipts	Rs. 10,53,945
viii	Addition on account of unrecorded business receipts	Rs. 12,00,000
ix	Any other adjustment	Nil
X	Assessed income u/s 153C of the I T Act, 1961	Rs. 4,77,88,482
xi	Rounded off	Rs. 4,77,88,480

4. Aggrieved by the said order the assessee preferred appeal before the Ld. CIT(A) who in turn restricted the addition to 10% of the unrecorded business receipts of Rs. 4,74,11,922/- amounting to Rs. 47,41,192/-. In fact against the said addition of Rs. Rs. 47,41,192/- as confirmed by the Ld. CIT(A) the assessee is in appeal before us and the Revenue is in appeal challenging the deletion of balance addition made by the Ld. CIT(A).

5. At the time of hearing of the matter the Ld. Counsel appearing for the assessee submitted before us that the issue is squarely covered by the order of the

Tribunal dated 29.04.2025 rendered in the case of Kohli Tent House (cross appeals in ITA Nos. 2475/Del/2023 & others for A.Y. 2016-17 to 2018-19), wherein the addition was made on the basis of the same search conducted as already narrated hereinbefore by the Department on 03.05.2018. It is relevant to mention that Kohli Tent House is also third party and additions were made in their hands which were also challenged before the First Appellate Authority who in turn restricted the addition to 10% of unaccounted receipts outside the books of account.

6. It is the case of the Ld. Counsel appearing for the assessee that the issue involved in the case in hand is squarely covered by the order dated 29.04.2025 passed by the Coordinate Bench in the case of Kohli Tent House rendered in ITA Nos. 2475, 2476 & 2477/Del/2023 & others (supra), a copy whereof was duly furnished before us.

7. Ld. DR has not been able to controvert the factual position as narrated hereinabove.

8. We have heard the submissions made by the respective parties and perused the materials available on record. The Ld. CIT(A) has restricted the addition @ 10%

of the unaccounted turnover i.e. suppressed sales computed by the AO, inter alia, by observing as under:

*“7.2.6 In view of the above facts and submissions by the appellant, I am of the view that only net profit of the out of books sales can be added to the income of the appellant. In the appellant's line of business which is a very competitive one and considering the net profit earned by M/s. Fourstar Hospitalities computed on the basis of unaccounted receipts and expenditure account found during the course of search and the discussion made in Para 7.2.4 above, I find it appropriate to consider the Net Profit of the appellant @10% of the Unaccounted Turnover i.e. suppressed Sales computed by the AO considering the suppression factor. Further, the AO has made separate addition of Rs. 3,67,75,270/- (Rs. 3,45,21,325/- + Rs. 10,53,945/- + Rs: 12,00,000/-) on account of unrecorded business receipts which has been considered to have been included in the estimated unaccounted suppressed sales, therefore, no separate addition on this account is found to be justified. Accordingly, the net profit for the year under review should have been Rs.47,41,192/- (i.e. 10% of 4,74,11,922/-). Therefore, the addition made by the assessing officer is restricted to Rs.47,41,192/-. Accordingly, this ground of appeal is partly allowed.”*

9. The order of the Ld. CIT(A) in restricting the addition @ 10% of unaccounted turnover is in consonance with the order of the Coordinate Bench in the case of Kohli Tent House (supra). No distinction on facts has been pointed out by the Ld. DR so as to take a different view in the matter. Under this facts and circumstances of the matter we have considered the order passed by the Coordinate Bench in ITA Nos. 2475 to 2477/Del/2023 & ITA Nos. 2447 to 2449/Del/2023 wherein the Coordinate Bench with the following observations upheld the order passed by the Ld. CIT(A):

*“31. We are therefore of considered view that the CIT(A) has applied a scientific view gathered from the seized materials found in the course of search for arriving at the suppressed unaccounted turnover/receipts of the assessee. We are also inclined to accept that the net profit of 75% from such business is not a probable proposition from the business of renting space and catering. We are of the considered view that adopting the net profit ratio of 10% of turnover is a rational basis as it is based on the seized materials itself. The CIT(A) has referred to the seized documents in the case of M/s Fourstar Hospitalities, a group concern, where the data as contained in Annexure A-12 and A-13 shows a working of profit and loss account for a period of FY 2017-18 and FY 2018-19, that the concern has had an average net profit of about 10% of the receipts outside the books of account. Further, we also find that the CIT(A) has taken cognizance of the fact that the AO himself has accepted the profit rate of 10% on the unaccounted receipts in the case of Tristar Hospitalities and Kohli Tent House. Therefore, under these facts we are inclined to agree with the CIT(A) that the net profit of 10% of unaccounted receipts is based on relevant facts emerging out of the seized materials during the course of search.”*

10. Considering the order passed by the Coordinate Bench, we do not find any reason to deviate from the same and accordingly, order of Ld. CIT(A) is affirmed. Consequently, appeals for A.Y. 2017-18 preferred by the assessee as well as the Revenue are dismissed.

11. Having regard to the issue identical in nature involved in the other appeals preferred by the Revenue & assessee, our this observation will apply mutatis mutandis.

12. In the result, Assessee's appeals in ITA Nos. 2495 & 2496/Del/2023 as well as Revenue's appeals in ITA Nos.2453/Del/2023 & 2465/Del/2023 for A.Y. 2017-18 & 2018-19 respectively are dismissed.

Order pronounced in open court on 04.07.2025.

Sd/-

**(NAVEEN CHANDRA)**  
**ACCOUNTANT MEMBER**

Sd/-

**(MS. MADHUMITA ROY)**  
**JUDICIAL MEMBER**

Dated: 04.07.2025

Rohit, Sr. PS

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT, NEW DELHI