

**IN THE INCOME TAX APPELLATE TRIBUNAL DELHI
(DELHI BENCH 'A' NEW DELHI)**

**BEFORE SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER
AND**

SHRI AVDHESH KUMAR MISHRA, ACCOUNTANT MEMBER

ITA No. 4885/Del/2017 (A.Y. 2009-10)

ITA No. 4886/Del/2017 (A.Y. 2010-11)

ITA No. 4887/Del/2017 (A.Y. 2011-12)

Assistant Commissioner of Income Tax, Central Circle-2, Room No. 363, E-2, ARA Jhandewalan Extension, New Delhi	Vs	Appu Ghar Holdings P. Ltd. Sector-10, Metro Walk, Near Rithala Metro Station, Rohini, New Delhi PAN: AAECA7643L
Appellant		Respondent

ITA No. 4881/Del/2017 (A.Y. 2013-14)

Assistant Commissioner of Income Tax, Central Circle-2, Room No. 363, E-2, ARA Jhandewalan Extension, New Delhi	Vs	Kamakshi Marketing P. Ltd. Sector-10, Metro Walk, Near Rithala Metro Station, Rohini, New Delhi PAN: AABCK4549A
Appellant		Respondent

ITA No. 4882/Del/2017 (A.Y. 2011-12)

Assistant Commissioner of Income Tax, Central Circle-2, Room No. 363, E-2, ARA Jhandewalan Extension, New Delhi	Vs	Appu Ghar Entertainment P. Ltd. Sector-10, Metro Walk, Near Rithala Metro Station, Rohini, New Delhi PAN: AACCA4438K
Appellant		Respondent

ITA No. 4883/Del/2017 (A.Y. 2013-14)
ITA No. 4884/Del/2017 (A.Y. 2014-15)

Assistant Commissioner of Income Tax, Central Circle-2, Room No. 363, E-2, ARA Jhandewalan Extension, New Delhi	Vs	Appu Ghar Securities and Solutions P. Ltd. Sector-10, Metro Walk, Near Rithala Metro Station, Rohini, New Delhi PAN: AAECA7642M
Appellant		Respondent

Assessee by	None
Revenue by	Sh. Jitender Singh, CIT DR
Date of Hearing	02/07/2025
Date of Pronouncement	09/07/2025

ORDER

PER BENCH:

The above captioned appeals are filed by the Revenue against the orders of Ld. Commissioner of Income Tax (Appeals)-23 ('Ld. CIT(A)' for short), New Delhi dated 23/05/2017 and 12/05/2017 pertaining to the Assessment Years 2009-10 to 2014-15 respectively in respect of the above Assesseees.

2. A search and seizure operation was carried out u/s 132 of Income Tax Act, 1961 ('Act' for short) on 10/03/2015 on Appu Ghar Group of cases and the Assessee herein was also covered u/s 132 of the Act. The assessment order came to passed u/s 153A r.w.s. 143(3) of the Income

Tax Act, 1961 ('Act' for short) against the captioned Assesseees by making certain additions. The assessment orders were called in question by the Assesseees before the Ld. CIT(A). The Ld. CIT(A) vide combined orders dated 23/05/2017 and 12/05/2017 along with other Assesseees, allowed the Appeals of the Assesseees herein on the ground that the Ld. CIT(A) has considered the issue involved in the Appeal in the order dated 04/05/2017 in the group case of 'Surana Buildtech Pvt. Ltd'.

3. Aggrieved by the order of the Ld. CIT (A) dated 12/05/2017, the Department of Revenue preferred the present Appeal.

4. The Ld. Department's Representative vehemently submitted that the order of the Ld. CIT(A) is cryptic, not decided any of the issues involved in the Appeals independently on its merit and in a vague manner, by mentioning the case of 'Surana Buildtech Pvt. Ltd', allowed the Appeals of the Assesseees, which cannot be sustained in the eyes of law. Thus, sought for allowing the Appeals of the Revenue.

5. None appeared for the Assesseees. Even after sending several notices of hearing.

6. We have heard the Department's Representative and perused the material available on record. The Ld. CIT(A) deleted the additions made

by the A.O. at the hands of the Assessee on the ground that the Ld. CIT(A) has considered the matter in great detail in its order dated 04/05/2017 in the group cases of Surana Buildtech Pvt. Ltd. and following the same, deleted the additions made in the hands of the Assessee herein. For the sake of convenience, the relevant portion of the Ld. CIT(A) in the case of ACIT Vs. Appu Ghar Entertainment for Assessment Year 2011-12 (ITA No. 4882/Del/2017) is reproduced as under:-

"3.1.3 The facts of the matter, as mentioned above, have been considered in great detail in my order dt. 04.05.2017 in the group case of Surana Buildtech Pvt. Ltd. in Appeal Nos. 337 & 338/16-17 for AYs 2011-12 at paras-4.1 to 4.1.9 wherein I have held that

"the AO was not within the jurisdiction bestowed on him by law to make the impugned additions in the assessment u/s 153A of the Act, and therefore the impugned assessment orders for both the assessment years cannot be sustained. It is held accordingly and the reassessment orders for both assessment years are quashed." (para-4.1.7). and that,

"no addition could be made without providing opportunity for cross-examination of the persons whose statements were relied upon by the AO make the addition and for this reason as well the addition is not sustainable." (para-4.1.5), and that,

"no addition could be made on the basis of a retracted statement and for this reason as well the addition is not sustainable." (para-4.1.6),

and having considered the facts related to the share application/share capital/unsecured loan in respect of M/s Surana Buildtech Pvt. Ltd. and all these other cases of the

group at paras-4.1.8 to 4.1.8.2 in my order in the case of Surana Buildtech Pvt Ltd. for AYS 2011-12 (supra) I have held that,

"the addition made is not sustainable on merits as well. I hold accordingly.",

and I have deleted the addition in the case of Surana Buildtech Pvt Ltd. for AYs 2011-12 (supra). Following the same the additions in all the above 16 assessments in the group cases listed at page-1 are deleted."

7. As could be seen from the above, the Ld. CIT(A) has not discussed regarding the 'incriminating material' qua the Assessee and qua the Assessment Year under consideration to conclude that the additions made by the A.O. are without incriminating material gathered during the search. The Ld. CIT(A) has also not discussed the issue of not providing opportunity to the Assesseees for cross examination of the persons who's statement were relied upon by the A.O. to make the addition in the hands of the Assesseees. The Ld. CIT(A) has also not stated anything in its order regarding the evidentiary value of the 'retracted statement' which has been made as basis for the addition. However, the Ld. CIT(A) has allowed the Appeals by impliedly borrowing the findings made in the case of Surana Buildtech Pvt. Ltd. vide order dated 04/05/2017. We find such approach of the Ld. CIT(A) is not only erroneous but also cryptic. Considering the peculiar facts and circumstances of the case,

we set aside the impugned orders of the Ld. CIT(A) and remand the matter to the file of the Ld. CIT(A) to decide all the above three issues in detail qua the facts and qua the documents of the Assessees and pass speaking order in accordance with law. Needless to say, the Assessees shall be provided the opportunity of being heard before passing the order.

8. In the result, Appeals of the Revenue are partly allowed for statistical purpose.

Order pronounced in the open court on 09th JULY , 2025

Sd/-

**(AVDHESH KUMAR MISHRA)
ACCOUNTANT MEMBER**

Date:- 09 .07.2025

R.N, Sr.P.S*

Sd/-

**(YOGESH KUMAR U.S.)
JUDICIAL MEMBER**

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI

