

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCHES: G : NEW DELHI

BEFORE SHRI ANUBHAV SHARMA, JUDICIAL MEMBER  
AND  
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER

ITA No.4862/Del/2024  
Assessment Year: 2015-16

ACIT,  
Circle-43(1),  
Delhi.

Vs S.K. Integrated Consultants,  
280, Deepali Pitampura,  
New Delhi – 110 034.

PAN : AAQFS5059P

CO No.24/Del/2025  
(ITA No.4862/Del/2024  
Assessment Year: 2015-16

S.K. Integrated Consultants,  
280, Deepali Pitampura,  
New Delhi – 110 034.

Vs. ACIT,  
Circle-43(1),  
Delhi.

PAN : AAQFS5059P

(Appellant)

(Respondent)

Assessee by	: Shri Amit Goel, CA & Shri Pranav Yadav, Advocate
Revenue by	: Shri Narpal Singh, Sr. DR
Date of Hearing	: 25.06.2025
Date of Pronouncement	: 09.07.2025

ORDER

PER ANUBHAV SHARMA, JM:

This appeal is preferred by the Revenue against the order dated  
10.06.2024 of the Ld. Commissioner of Income-tax (Appeals), NFAC, Delhi.

The assessee has filed the Cross Objection.

2. At the time of hearing, it came up that the appeal of the Revenue was filed late by 70 days. No objection was taken by the Id. AR to the same and, accordingly, the delay stands condoned.

3. The assessee had filed cross objections and primarily the contention of the Id. AR was focused on the cross objections which were defended by the Id. DR by relying the orders of the Id. tax authorities. It comes up that the assessee filed the return declaring an income of Rs.1,82,82,530/- and the assessment was completed u/s 143(3) of the Act on 28.12.2017 at an income of Rs.1,83,68,785/- Thereafter, an order u/s 263 of the Act was passed on 24.12.2018 by the Id. PCIT, directing the AO to make the assessment *denovo* and, consequently, the impugned assessment order u/s 263 r.w.s. 143(3) of the Act was passed determining the income at Rs.6,79,03,018/- making a disallowance on account of contract charges of Rs.4,96,20,488/-. Aggrieved by the disallowance made, the assessee filed an appeal before the CIT(A) who deleted the addition made by the AO. Now, by way of the cross objections, the assessee has raised the following grounds:-

*“1. On the facts and circumstances of the case and in law, the addition of Rs.4,96,20,488/- made by the assessing officer u/s 69C of the Act is totally erroneous as there is no applicability of provisions of section 69C of the Act to the facts of the case of the assessee.*

*2. On the facts and circumstances of the case and in law, the addition of Rs.4,96,20,488/- made by the assessing officer is erroneous as the books of account have not even been rejected by the assessing officer.”*

4. The Id. AR has relied the decision of the Hon'ble Delhi High Court in the case CIT vs. M/s Radhika Creation, 2010 (4) TMI 100 –Delhi High Court, wherein in paras 4 to 6, the Hon'ble High Court has observed as follows:-

*“4. The case before us has two dimensions. The first being as to whether the Assessing Officer was right in treating the said sum of Rs 44,38,997/- as unexplained expenditure under Section 69C of the said Act. The second aspect is whether the said addition could legitimately have been made in the course of a block assessment.*

*5. Insofar as the first aspect of the matter is concerned, we find that Section 69C clearly stipulates that where, in any financial year, the assessee has incurred an expenditure and he offers no explanation about “the source of such expenditure or part thereof”, or the explanation, if it is offered by him, is not, in the opinion of the Assessing Officer, satisfactory, the amount covered by such expenditure or part thereof, as the case may be, may be deemed to be the income of the assessee for such financial year. Thus, the focus of Section 69C is on the "source" of such expenditure and not on the authenticity of the expenditure itself. It is an admitted position that the expenditure was shown by the assessee in its regular books of accounts and it is because of this reason that the Income-tax Appellate Tribunal had observed:-*

*"As the expenditure was accounted in the regular books, the source is obviously explained. The provisions of Section 69C are not applicable as there was no unaccounted expenditure."*

*(underlining added)*

*6. What the Assessing officer attempted to do was to go into the authenticity of the expenditure and he returned a finding that the expenditure was not authenticated by vouchers and consequently, he added the said expenditure as unexplained expenditure under Section 69C. We are in agreement with the observations and findings of the Commissioner of Income-tax (Appeals) as well as that of the Income-tax Appellate Tribunal that this is not a case which falls under Section 69C. Clearly, Section 69C refers to the „source of the expenditure” and not to the expenditure itself. Consequently, the Assessing Officer was clearly wrong in treating the said expenditure as unexplained expenditure under Section 69C of the said Act and the lower appellate authorities were right in their conclusions in deleting the said addition.”*

5. In the case of the present assessee, admittedly, the details of contract charges were provided by the assessee in the form of the names of the contractors, their PANs, contact details, amounts paid and TDS deducted. However, when notices u/s 133(6) were issued on test check basis only one confirmation was received leading to the conclusion by the AO that the payment of contract charges is doubtful and it was considered as unexplained expenditure and added to the income of the assessee. The NFAC while hearing the appeal has taken into account the fact that as the impugned assessment order was passed u/s 263 r.w.s. 143(3) of the Act as per the directions of the PCIT, the AO was supposed to examine the genuineness of the transaction. However, the AO failed to discharge its onus by an inquiry. The CIT(A) has also considered the plea that the expenditure towards contract expenses has been claimed at lower percentage with higher net profit ratio as compared to the preceding years. Thus, we are satisfied that the plea of the assessee that the basic pre-conditions for invoking the provisions of section 69C of the Act are that the expenditure incurred by the assessee should be out of books of account. However, here, the payments are after TDS. The assessee has sufficiently explained the sources of expenditure from the books itself and the AO has merely considered the expenses to be not verifiable. Thus, we find substance in the grounds raised in the Cross Objections as the AO has erred in invoking the provisions of section 69C of the Act for making a disallowance of the contract charges duly recorded

in the books which, otherwise, are also found to be genuine by the CIT(A).  
Consequently, the cross objections are allowed. The corresponding appeal of  
the Revenue becomes infructuous and is dismissed.

Order pronounced in the open court on 09.07.2025.

Sd/-

(MANISH AGARWAL)  
ACCOUNTANT MEMBER

Sd/-

(ANUBHAV SHARMA)  
JUDICIAL MEMBER

Dated: 09<sup>th</sup> July, 2025.

dk

Copy forwarded to:

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

Asstt. Registrar, ITAT, New Delhi