

IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH "A" : NEW DELHI)

BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT
AND
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER

ITA No. 6217/Del/2017

Asstt. Year : 1992-93

DCIT, CIRCLE-3(2), NEW DELHI

vs.

M/S ASIAN CONSOLIDATED
INDUSTRIES LTD.,
96TH MILE STONE, DELHI-
JAIPUR HIGHWAY,
VILLAGE-BAWAL, DISTT.-
REWARI, HARYANA
(PAN: AAACA5887A)

(Appellant)

(Respondent)

Appellant by : Sh. Ved Jain, Adv. & Sh. Ayush Garg, CA
Respondent by : Shri Ajay Kumar Arora, Sr. DR

Date of Hearing	26.06.2025
Date of Pronouncement	25.07.2025

ORDER

PER MAHAVIR SINGH, VP:

This appeal has been filed by the Revenue against the order dated 21.07.2017 passed by the Ld. CIT(A)-I, New Delhi for the assessment year 1992-93 on the following grounds:-

1. The Ld. CIT(A) has erred in law and on facts in deleting the addition of Rs. 2,01,43,675/- made by the AO on account of bogus sales without appreciation the facts brought by the

AO on records that the sales were made to a bogus, non-existent party.

2. The Ld. CIT(A) has erred in law and on facts in restricting the addition to Rs. 7155/- as against of Rs. 1,37,500/- made by the AO on account of cash receipts received by the assessee.
3. The CIT(A) has erred in law and on facts in allowing the depreciation on plant and machinery of Rs. 2,99,662/- to the assessee.
4. The Ld. CIT(A) has erred in law and on facts in deleting the addition of Rs. 3,70,540/- made by the AO on account of unexplained subscription of share capital.
5. The Ld. CIT(A) has erred in law and on facts in restricting the addition to Rs. 10,000/- as against of Rs. 5,59,318/- made by the AO under section 40A(3) of the Income Tax Act, 1961 without properly appreciating the facts brought by the AO on record.
6. The CIT(A) has erred in law and on facts in deleting the addition of Rs. 5,58,814/- made by the AO on account of unverifiable unsecured loans.

2. Brief facts of the case are that in this case return of income was filed at Rs. 5,90,498/- on 31.12.1992. Original assessment order u/s. 143(3) was passed on 06.10.1995 by assessing the total income at Rs. 5,53,48,790/- and in appeal Ld. CIT(A) granted the partial relief and set aside some issues vide order dated 25.3.1996. On 07.01.1999, the assessee Company Liquidator was appointed. On 30.3.1999, the AO on the set aside issues by the CIT(A) assessed the income at Rs. 1,17,94,440/-. ITAT order was passed on 12.2.2004 in respect

of revenue appeal against CIT(A) order dated 25.3.1996 in ITA No. 3937/Del/1996, setting aside back to CIT(A). On 08.05.2013 the company was revived from liquidation and on 19.06.2015 ITAT order setting aside CIT(A) order against AO order dated 30.3.1999 in ITA No. 4019/Del/2013 back to AO and AO vide his order dated 30.12.2016 assessed the income at Rs. 2,47,84,177/- by making various additions and in Appeal Ld. CIT(A) passed his order on 21.7.2017 by partly allowing the appeal of the assessee. Aggrieved, the Revenue is in appeal before us.

5. As regards, Ground No. 1, 2 and 3 are concerned, it is noted that these grounds are not arising from the present assessment order, hence, the same are dismissed being infructuous.

6. As regards, Ground no. 4 is concerned, the AO made the addition of Rs. 3,70,540/- on account of subscription to share capital by treating the same as unexplained, due to the fact that assessee has not submitted any evidence for verification of the genuineness of transaction. In appeal, assessee had filed a paper book wherein, submission filed before the AO was enclosed along with the assessment/ appellate orders of the subscribers to the share capital to substantiate its claim that necessary information and evidences were duly placed before the AO. After considering the aforesaid evidences, Ld. CIT(A) observed that assessee has discharged its onus and had submitted the relevant details and evidences with respect to the genuineness of the subscription towards share capital for which AO was unable to contradict the same, hence, the addition of Rs. 3,70,540/- was rightly deleted by the Ld. CIT(A). In view of the aforesaid factual matrix, we do not find any infirmity in the order of the Ld. CIT(A), hence, we uphold the same and reject the issue in dispute raised by the Revenue.

7. As regards, Ground no. 5 is concerned, the AO made the addition of Rs. 5,59,318/- u/s. 40A(3) of the Act on account of payment to some parties. In appeal the assessee explained that the payment made to M/s Deepak Company were covered by rule 6DD as M/s Deepak Trading Company was situated in Bombay and insisted on cash payment and the payment was made in exceptional circumstances and assessee company was also not having any bank account in Bombay and the payments for power and fuel also could not be made through cheque as the recipients were small traders and refused to accept the payments through cheque, hence, in the case of M/s Deepak Trading Company and Power and Fuel the provisions of Rule 6DD are applicable. Id. CIT(A) noted that the contention towards applicability of the provisions of rule 6DD is concerned, the same were accepted by the then CIT(A)-XIX, New Delhi and the explanation tendered by the assessee before the present proceedings appears to be plausible. However, the assessee had failed to produce copies of the bills related to consumables, but considering the finding of the CIT(A)-XIX, New Delhi before whom such bills were produced and which were vouched by him to be of below Rs. 10,000/-. The assessee failed to produce any explanation and evidence to substantiate that staff welfare expenditure of Rs. 10,000/- is not hit by the mischief of section 40A(3) of the Act, hence, such disallowance of Rs. 10,000/- towards staff welfare expenses u/s. 40A(3) of the Act was rightly confirmed, as a result, the assessee got the relief of Rs. 5,49,318/- in this respect. In view of the aforesaid factual matrix, we do not find any infirmity in the order of the Id. CIT(A), hence, we uphold the same and reject the issue in dispute raised by the Revenue.

8. As regards, Ground no. 6 is concerned, the AO made the addition of Rs. 5,58,814/- with respect to unsecured loans appearing in the books of account of the assessee company. We note that Id. CIT(A) on perusal of the annexures

to the balance sheet wherein dividend payable and regrouping under the head unsecured loan has been made. No fresh credit has been entered in the books of accounts and the dividend payable was converted into the unsecured loan in the name of shareholders of the assessee company and all the persons from whom such unsecured loan is shown are shareholders. There is no material to justify that assessee has introduced unsecured loans. Hence, the addition on account of unsecured loan of Rs. 5,58,814/- was not justified and the same was rightly deleted by the Ld. CIT(A). In view of the aforesaid factual matrix, we do not find any infirmity in the order of the Id. CIT(A), hence, we uphold the same and reject the issue in dispute raised by the Revenue.

9. In the result, the Revenue's appeal is dismissed.

Order pronounced in the Open Court on 25.07.2025.

Sd/-

(AMITABH SHUKLA)
ACCOUNTANT MEMBER

Sd/-

(MAHAVIR SINGH)
VICE PRESIDENT

SRBhatnagar

Copy forwarded to: -

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

Assistant Registrar, ITAT,
Delhi Bench