

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

**BEFORE SHRI SUDHIR KUMAR, JUDICIAL MEMBER
AND
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

ITA No.1511/Del/2024
(ASSESSMENT YEAR 2017-18)

Vinod Deshmukh X/1074, Naya Katra, Chandni Chowk, Delhi-110006 PAN:AGAPD2516Q (Appellant)	Vs.	Income Tax Officer, Ward-47(5), Delhi. (Respondent)
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Assessee by	Ms. Manju Goel, CA and Shri Manju Goel, CA
Department by	Shri Om Prakash, Sr. DR
Date of Hearing	21/08/2025
Date of Pronouncement	21/08/2025

ORDER

PER MANISH AGARWAL, AM,

This appeal is filed by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals)-26, New Delhi [CIT(A), in short] in Appeal No.10490/2019-20 dt. 14.02.2024 arising out of the assessment order dated 21.12.2019 passed u/s 143(3) of the Income Tax Act, 1961 (hereinafter referred as 'the Act') for Assessment Year 2017-18.

2. The brief facts of the case are that assessee is an individual and a search was carried on 25.11.2016 based on the post search enquiry wherein statements of one Shree Prateek Bansal were recorded. The AO received information on 17.08.2019 from ACIT, Central Circle-16, New Delhi with respect to the receipt of the cash by the assessee from one Shri Prateek Bansal Rs.4,42,00,000/-. The case of the assessee was selected for scrutiny and the AO has passed the order u/s 143(3) dated 21.12.2019 wherein the protective addition of Rs.4.42,00,000/- was made in the hands of the assessee by holding the cash payment to the alleged

cash payment of Sh. Prateek Bansal as the income of the assessee. It is further observed by the Ld. AO that the substantial addition is to be made in the correct hand.

3. Against this order, the assessee preferred an appeal before the Ld. CIT(A) who dismissed the appeal of the assessee, therefore, the assessee is in appeal before the Tribunal by taking following grounds of appeal:

“1. That in view of the facts and circumstances of the case, the Ld. CIT (A) has erred by confirming 50% of the addition le Rs. 2,21,00,000/- by relying solely on the statement of the assessee given before the ED under forced confession without discussing and providing the material to the assessee and the said statement was retracted by the assessee, so the order of The Ld. CIT(A) is bad in law and against the principles of equity and justice.

2. That on the facts and circumstances of the case and in law the Ld. CIT(A) has erred by ignoring that the Assessing Officer not made any enquiry or effort to verify the veracity of statement of Prateek Bansal which is the only base to make addition on protective basis.

3. That on the facts and circumstances of the case, not a single statutory notice u/s 143(2) of The Income Tax Act 1961 has been issued by the Assessing Officer Ward 47(5) which is bad in law so the assessment order passed u/s 143(3) of The Income Tax Act. 1961 is void ab initio.

4. That on the facts and circumstances of the case and in law The Ld. CIT(A) has completely failed by not considering the ground of jurisdiction of the Assessing Officer.

5. That on the facts and circumstances of the case and in law the Ld CIT(A) has erred by not considering that no proper opportunity was provided to the assessee before passing the assessment order.

6. That on the facts and circumstances of the case and in law The Ld. CIT(A) has erred by not discussing/ considering the reply dated 20. 12. 2019 against show cause notice dated 19/12/2019 as:

a. To provide him a copy of the statement of Prateek Bansal recorded during search despite of repeated requests to the Assessing Officer and to CIT(A)

b. To issue summon u/s 131 of The Income Tax act, 1961 on specific request of the assessee as during the earlier summon issued on 05.12.2019 for 09.12.2019 the assessee was out of station.

C. To provide the assessee an opportunity to cross the statement of Sh Prateek Bansal as the said statement was totally fake and cannot be relied upon by the Assessing Officer and CIT(A).

D. To permit to file an affidavit / declaration in regard to denial of payment of Rs 4.42 crore to Prateek Bansal.

7. That on the facts and circumstances of the case and in law the assessee has preferred an appeal before the honorable CIT(A)-16 correct jurisdiction whereas the proceedings and appellate order has been passed by Ld. CIT(A)-26 New Delhi which is bad in law and not justified.

8 In view of the facts and circumstances of the case the appellant prays that the addition be deleted or any other order which this Hon'ble Court deems fit and proper be passed in favour of the assessee.

9. That the appellant craves leave to add, modify or delete any of the above grounds of appeal or at any time of hearing of the appeal.”

4. During the course of hearing, the Bench has given directions in terms of order sheet entry dated 24.04.2025 to the ld. DR to ascertain the status of the case of the person in whose hands substantive addition were made by AO.

5. During the course of hearing, the Ld. Sr. DR submits that a mail is received from the AO wherein it is stated that substantive addition was made in the hands of the Sh. Prateek Bansal and in his case the Co-ordinate Bench of ITAT, Delhi vide its order dated 04.06.2023 allowed the appeal of the assessee for statistical purposes and the restore the matter to the file of Ld. AO for denovo adjudication in accordance with law. The relevant mail submitted by the Ld. Sr. DR is reproduced as under:

*“Respected Sir,
Kindly refer to your trailing mail.
In this regard, it is stated that have joined the office recently. Kindly grant me some more time to respond to the query raised try the assessee before the Hon'ble (TAT. shall remain obliged to you,*

Regards

*Om Prakash Sinha
Central Circle-16
New Delhi*

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*Regards,
Deputy Commissioner of Income Tax Central Circle-16,
New Delhi Room No. 295,
E-2, ARA Centre,
Jhandewalan Extn. New Delhi-55
On 05/30/25 04:24 PM, om parkash <om_parkash@incometax.gov.in> wrote:
Dear Assessing Officer,*

The subject appeal of the assessee is coming up for hearing on 05.06.2025.

In the present case the assessee has been pleading that subject addition was made in his hands only on protective basis his case and substantive addition made in the case of other person. Accordingly, during the last course of hearing (see the daily order dated 24.4.2025), the Hon'ble Bench directed the Department to furnish a status report as to in whose hands the sustentative addition was made and what is the current status of that assessment?

You are, therefore, requested to send a report to this effect immediately.

Copies of the grounds of appeal taken by the assessee in this appeal and copy of daily order[supra] are attached for ready reference.

Note: The Range Head may kindly ensure the needful action.”

6. As in the instant case, the addition was made in the hands of the assessee on protective basis and it is submitted by the Revenue that substantive addition of Rs. 4.42 crores were made in the hands of Sh. Prateek Bansal whose case was remanded to the file of the Ld. AO by the Tribunal vide order dt. 04.06.2025 to pass *denovo* assessment. Under these circumstances, in order to take appropriate decision in the present appeal also, the case of the assessee also needs to be sent to the field of AO. Accordingly, we set aside the orders of the lower authorities and the present appeal is also remanded to the file of AO for fresh adjudication in the light of decision taken in the hands of Prateek Bansal after determine the person in whose hands substantive addition is to be made. The assessee is also directed to participate with the AO in the proceedings.

7. In the result, the appeal of the assessee is allowed for statistical purposes. Order pronounced in the open court on 21.08.2025.

Sd/-
(SUDHIR KUMAR)
JUDICIAL MEMBER

Sd/-
(MANISH AGARWAL)
ACCOUNTANT MEMBER

Dated: 27.08.2025

PK/Sr.PS

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI