

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "F" DELHI**

**BEFORE SHRI ANUBHAV SHARMA, JUDICIAL MEMBER
AND
SHRI KRINWANT SAHAY, ACCOUNTANT MEMBER**

ITA No. 7377/DEL/2018

Asstt. Yr: 2013-14

Janak Cranes Pvt. Ltd., 5/3, Facility Centre, Mayapuri, Phase-II, New Delhi-110064. PAN: AACCCJ 1668 E	<u>Vs</u>	DCIT, Circle-13(1), New Delhi.
APPELLANT		RESPONDENT

ITA No. 7977/DEL/2018

Asstt. Yr: 2013-14

Add. CIT, Special Range-5, New Delhi.	<u>Vs</u>	Janak Cranes Pvt. Ltd., 5/3, Facility Centre, Mayapuri, Phase-II, New Delhi-110064. PAN: AACCCJ 1668 E
APPELLANT		RESPONDENT

Assessee represented by	Ms. Rano Jain, Adv.; & Ms. Mansi Jain, Adv.
Department represented by	Ms. Monika Singh, CIT(DR)
Date of hearing	19.08.2025
Date of pronouncement	29.09.2025

ORDER

PER: KRINWANT SAHAY, AM:

Appeals in this case have been filed by the assessee as well as by the Revenue against the order dated 19.09.2018 passed by the CIT(Appeals)-36, New Delhi for A.Y. 2013-14. Grounds of appeal taken by the assessee as well as by the Revenue are as under:

ITA No. 7377/Del/2018 (assessee's appeal -A.Y. 2013-14):

“1.1 That on the facts and in the circumstances of the case, the learned Commissioner of Income Tax (Appeals)-36, New Delhi (CIT(A) for short) erred in restricting the disallowance of Rs. 1,12,11,243/-made by DCIT, Circle-13(1), New Delhi (AO for short u/s 36(1)(iii) of the Income Tax Act, 1961 to Rs. 87,62,997/-

1.2 Without prejudice to the generality of ground of appeal no. 1.1 above, the disallowance of Rs. 87,62,997/-is capricious, arbitrary & excessive.

2. That on the facts and in the circumstances of the case, CIT(A) erred in upholding the action of the AD in making an addition of Rs. 39,00,079/-on account of alleged difference in receipts as reflected in Form 26 AS and contract receipts shown by the appellant in its Profit & Loss Account.

3. That on the facts and in the circumstances of the case, CIT(A)erred in upholding an addition of Rs. 9,46,512/- on account of alleged wrong deduction claimed by the appellant in the computation of income.

4. That the appellant craves liberty to add, alter, vary or amend any ground of appeal.”

ITA No. 7977/Del/2018 (Revenue's appeal -A.Y. 2013-14):

“1. Whether on the facts of the circumstances of the case & law, the Ld. CIT(A) is right to delete the addition made by the AO on account of unexplained cash credit u/s 68 of the IT Act amounting Rs. 1,28,,30,000/-.

2. Whether on the facts of the circumstances of the case & law the Ld. CIT(A) is right to delete the addition made by the AO on account of unexplained cash deposit in bank account of Rs. 54,87,000/-.

3. Whether on the facts of the circumstances of the case & law, the Ld. CIT(A) is right to delete the addition made by the AO on account of disallowances u/s 40(a) (ia) of the IT Act amounting Rs. 1,97,43,418/- on account of payment of interest without deduction of TDS u/s 194A(1) to NBFC's.

Whether on the facts of the circumstances of the case & law. The Ld. CIT(A) is erred in allowing admission of additional evidence even though assessee had not co-operated with the Assessing Officer during Remand proceedings.

5. That the grounds of appeal are without prejudice to each other.

6. That the appellant craves leave to add, amend, alter or forgo any ground/(s) of appeal either before or at the time of hearing of the appeal.”

2. During proceedings before us it was brought to our notice that the order passed by the Assessing Officer in this case is u/s 144 because despite the fact that many notices were issued by the Assessing Officer to the assessee, the assessee did not appear nor filed any written submissions before the Assessing Officer. Therefore, the Assessing Officer passed an ex parte order in this case on 30.03.2016. Against this order the assessee filed an appeal before the Ld. CIT(Appeals). During the appellate proceedings the assessee filed additional evidence before the Ld. CIT(Appeals) which was remanded back to the Assessing Officer for his remand report by the Ld. CIT(Appeals). But during the remand proceedings also despite the fact that various notices and opportunities were given to the assessee no one appeared nor any written submission was filed before the Assessing Officer. It is clear as the Ld. CIT(Appeals) in his order has mentioned it by quoting the Assessing Officer which is as under:

“i) Details of hearing conducted during remand proceeding: As per the directions of your good self, notice was send to the assessee on 06.04.2018 for remand back proceedings and the case was fixed on 10.04.2018. On hearing dated 10.04.2018, the assessee through its AR sought adjournment and the hearing was again fixed on 23.04.2018 which was again adjourned to 15.05.2018. subsequently on hearing dated, 15.05.2018, neither the assessee not its AR attended the hearing to explain its case for admission of additional evidence filed under rule 46A of the I.T. Rules. The hearing was finally fixed on 25.05.2018. Again on 25.05.2018, neither the assessee not the AR attended the hearing as scheduled. This clearly shows that the assessee neither during the assessment proceedings u/s 143(3) of the I.T. Act' 1961 nor during the remand back proceedings showed any seriousness to explain or file any documentary proof with reference to additions made by the assessing officer!”

3. In the absence of any cooperation from the assessee, the Assessing Officer prepared the remand report and sent it to the CIT(Appeals).

4. From the appellate order of the CIT(Appeals) we find that the Ld. CIT(Appeals) has passed the order on the basis of details filed by the assessee before him. But from the assessment order passed by the Assessing Officer and the appellate order passed by the Ld. CIT(Appeals) it is clear that no inquiry/investigation/ verification has been made at any stage either during the assessment proceedings or at the appellate stage. Whatever additions have been made/ sustained or deleted by the Ld. CIT(Appeals) are just on the basis of papers filed by the assessee during appellate proceedings. But from the appellate order no where it is mentioned how the inquiries were made or verifications were made for accepting or rejecting the claims made by the assessee.

5. During proceedings before us, the learned counsel for the assessee argued that the additions confirmed by the Ld. CIT(Appeals) should be deleted similarly, The Ld. CIT(DR) requested that the additions deleted by the Ld. CIT(Appeals) should be dismissed.

6. We have considered the arguments of both the learned counsel for the assessee as well as the arguments made by the Ld. CIT(DR). We find that the additions either confirmed or deleted by the Ld. CIT(Appeals) are on the basis of papers/documents and details filed by the assessee before the Ld. CIT(Appeals) during the appellate proceedings. But we also note that no inquiry/ verification/investigation has been made at any stage either before the Ld. CIT(Appeals) or before the Assessing Officer (as the

Assessing Officer has passed order u/s 144). Therefore, in the fitness of things we are of the considered view that keeping the element of natural justice to both the assessee as well as to the department, the matter is to be remanded back to the Assessing Officer for passing an order in this case de novo after making full verification/ inquiries on different issues. The assessee is also directed to cooperate during the assessment proceedings and the Assessing Officer is directed to give adequate opportunity as required under law to the assessee.

7. In the result, appeals filed by the assessee as well as the Revenue are allowed for statistical purposes.

Order pronounced in open court on 29.09.2025.

Sd/-
(ANUBHAV SHARMA)
JUDICIAL MEMBER

Sd/-
(KRINWANT SAHAY)
ACCOUNTANT MEMBER

Dated: 29.09.2025.

MP

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI