

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

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

**ITA No.5325/Del/2024
(ASSESSMENT YEAR 2020-21)**

M/s Air Con Systems (India) Pvt. Ltd. A-2/40F/F, Safdarjung Development Area, Green Park Market, South West Delhi-110016. PAN-AAACA9931D (Appellant)	Vs.	DCIT, Central Circle-30, New Delhi. (Respondent)
--	-----	--

Assessee by	Shri Mayank Patawarai, Adv.
Department by	Shri Sanjeev Kumar Yadav, CIT-DR
Date of Hearing	15/07/2025
Date of Pronouncement	10/10/2025

ORDER

PER MANISH AGARWAL, AM:

This appeal is filed by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals), New Delhi [CIT(A), in short] dated 16.10.2024 in Appeal No. 30/10680/2019-20 arising out of order passed u/s 144 r.w.s/153A of the Income Tax Act, 1961 (hereinafter referred as 'the Act') dated 28.03.2022 for Assessment Year 2020-21.

2. Brief facts of the case are that a search and seizure operation was carried out in the case of 'Sanjay Jain and Mehtas' on 26.10.2020 and, thereafter, the consequential searches were carried out on M/s Canon Fasteners, M/s Pawan Kumar & M/s Winner Constructions Pvt. Ltd. which are engaged in the business of

construction and taking accommodation entries in the shape of bogus purchases invoices from Sanjay Jain & Ors. The case of the assessee was also covered under the search and accordingly notice u/s 153A was issued on 18.11.2021. In response, the assessee had not filed any return of income. The assessment was completed after considering the submissions wherein based on the documents found during the course of search titled as Annexure A-7 from FCB-1 found from the residence of Sh. Surender Gupta. As per the said paper assessee has received Rs.62,00,000/- in cash. The AO alleged that this amount of cash is unexplained receipts of the assessee and accordingly addition of Rs.62,00,000/- was made u/s 69A of the Act in the hands of the assessee. In first appeal Ld. CIT(A) confirmed the addition, therefore, the assessee is in appeal before the Tribunal by taking the following grounds:

1. *On the facts and circumstances of the case, the order passed by Ld. CIT(A) is bad both in eyes of law and on facts.*
2. *That the Ld. CIT(A) has erred in law and on facts in confirming the addition made by the Ld. AO which was made without properly considering the plausible explanations and evidence submitted by the assessee during the assessment proceedings, and without drawing logical conclusions from the seized material.*
- 2.1. *That the Ld. CIT(A) has erred in law and on facts by confirming the addition and upholding the assessment order, failing to acknowledge that the Ld.AO incorrectly assumed that the document pertains to the assessee based solely on the unsubstantiated presumption that "HR" indicates Harsh Gupta and "YOG" indicates Yogesh Jhangra, without any valid proof.*
3. *That the Ld. CIT(A) has erred in law and on facts by not annulling the addition of Rs. 62,00,000, which was made on account of unexplained income under Section 69A of the Act, despite the fact that no cash amount has been received for Project Anthurium.*
4. *That the Ld. CIT(A) has erred in law and on facts by not canceling the interest charged under sections 234A and 234B of the Act.*
5. *That the Ld. CIT(A) has erred in law and on facts by not terminating the penalty proceedings initiated under section 271AAC of the Act on the grounds that these are separate from the assessment proceedings.*
6. *That the appellant reserves the right to add, modify, alter, amend or delete any of the grounds."*

3. Grounds of appeal Nos 1 to 3 are in relation to the addition of Rs. 62,00,000/- made in the hands of the assessee by holding the same as unexplained and undisclosed receipts, therefore, they are taken together for consideration.

4. Before us, in support of the grounds of appeal no.1 to 3, the ld. AR submits that the loose paper No. 46 of Anx. A-7 from FCB-1, is stated to have been found during the course of search from the possession of Sh. Surender Gupta and not with the assessee. The assessee was never provided copy of statement, if any, recorded of Sh. Surender Gupta with respect to the alleged paper nor any addition was made in the hands of Sh. Surender Gupta with whom the said paper was found. The Ld. AR further submits that assessee had started construction at the project of the Anthurium in the year 2019 and as observed by the AO that this paper is found during the search with Sh. Surender Gupta which was carried out in Financial Year 2020-21. It is alleged that the notings found in the said paper also contained an entry of Rs.62,00,000/- received by the assessee in cash. The copy of the said paper is reproduced at page 3 of the assessment order clearly suggests that there is no date mentioned therein. As per ld. AR, it is an established law that where undated paper is found, it should be presumed that same pertains to the year of search if no corroborative evidence is available to establish that the entries contained therein pertain to any other Assessment Year. The Ld. AR submits that in the said paper there were details of 1st to 5th Bill of SQY COWORK and 1st and 2nd Bill of INOP COWORK. The Ld. AR submits that these are the works carried out by the assessee in subsequent periods as the projects started in Financial Year 2019-20 and the running bills were not raised till the March, 2020 for which reference is made in the said paper. The Ld. AR further submits that AO has failed to link the entries contained in the said paper book with any other material/entries found recorded in

the books of accounts and wrongly added the same solely on the allegation that the entries appearing with the titled as “CASH ANTH HR” and “CASH ANTH YOG” indicates cash received in Anuthirum Project by Yogesh Jangra on behalf of assessee. The assessee has made no such transactions with these persons and may be there were transactions between Yogesh Jangra and Harsh Gupta which were made the basis of the addition, however, in such recording there is no reference of the assessee as the recipient of this cash receipt. He therefore requested to delete the addition so made.

5. On the other hand, the Ld. CIT-DR vehemently supported the orders of the lower authorities and submit that the assessee has carried out construction activities for the Anuthirum Projects and said receipt of cash from Yogesh Jangra and Harsh Gupta which is evident from paper seized during the course of search, therefore, the AO has rightly made additions in the hands of the assessee company.

6. Heard both the parties and perused the materials available recorded. From the perusal of the order of Ld. AO as well as by Ld. CIT(A), we find that both the lower authorities had made and confirmed the additions u/s 69A of the Act. For ready-reference, provision of section 69A is extracted here under:-

69A. - Where in any financial year the assessee is found to be the owner of any money, bullion, jewellery or other valuable article and such money, bullion, jewellery or valuable article is not recorded in the books of account, if any, maintained by him for any source of income, and the assessee offers no explanation about the nature and source of acquisition of the money, bullion, jewellery or other valuable article, or the explanation offered by him is not, in the opinion of the] [*Substituted by Act 18 of 1992, Section 35, for Explanation 3 (w.e.f. 1.4.1993).*][Assessing Officer] [*Substituted by Act 4 of 1988, Section 2, for " Income-tax Officer" (w.e.f. 1.4.1988).*][, satisfactory, the money and the value of the bullion, jewellery or other valuable article may be deemed to be the income of

the assessee for such financial year.] [Inserted by Act 5 of 1964, Section 16 (w.e.f. 1.4.1964).]"

7. From the perusal of the above, it could be seen that provisions of Section 69A could be invoked where the assessee is found to be the owner of any money, bullion, jewellery or other valuable article which were not recorded in the books of account, if any, maintained by him for which the source of acquisition was not satisfactorily explained.

8. In the instant case, it is not the allegation of the Revenue that there was cash of Rs.62,00,000/- found from the possession of the assessee during the course of search carried out nor there is any statement of the any person brought on record stating that the said cash was received by him on behalf of the assessee company. It is further seen that the said paper does not contain any date nor has any reference of any entry which suggests that the transactions noted therein pertained to Financial Year 2019-20 relevant to AY 2021-22 i.e. the assessment year before us. It is settled law that when during the course of search any document or loose paper is found containing certain entries and if no date is mentioned on the same, it is presumed that the entries contained therein relates to the year of search. In the present case, the first search was carried on 26.10.2020 and second search was carried on 11.02.2021. It is not stated in the assessment year whether the Sanjay Jain from whose possession the said paper was found was searched on first occasion or in second occasion. Nonetheless, both the dates are fallen in Financial Year 2020-21 relevant to Assessment Year 2021-22.

9. As observed above, the said paper does not contain any date, thus, entries contained therein are related to Financial Year 2020-21 relevant to Assessment Year 2021-22. However, addition is made for the entries found noted in the said paper in

Assessment Year 2020-21 which is not correct and no addition could be made in the assessment year before us based on the entries found recorded in the said paper.

10. It is further seen that the AO has failed to bring any corroborative material to hold that these entries pertained to assessee company and the cash was received by assessee company more particularly when no document whatsoever was found or seized from the possession of assessee company during the course of search carried in its own case. It is further seen that the AO has also failed to make any enquiry with regard to the running bills mentioned in the said paper to support his allegation that the assessee has received this amount of 62.00 lacs in cash during the year under appeal.

11. Regarding audio recording of conversation between Yogesh Jangra and Harsh Gupta as reproduced in the para 5.5 of the assessment order, we find that this conversation has no mention of the assessee nor has any link with the seized document, therefore, it cannot be held that assessee has received any cash as stated in the said conversations between Sh. Yogesh Jangra and Harsh Gupta and the assessee cannot be held liable for the same. In view of these facts, in our considered opinion, no addition could be made on the basis of entries found noted in the said seized paper page No.46 of Annexure A-7 from FCB-1 found from the residence of Sh. Surender Gupta. Accordingly, we hereby directed to delete the addition and the ground No.1 to 3 are thus allowed.

12. Ground No.4 is with respect to the levy of interest u/s 234A and 234B which are consequential in nature and ground No.5 with respect of initiation of penalty proceedings which is premature.

13 In the result, the appeal of the assessee is allowed.

Order pronounced in the open Court on 10.10.2025.

Sd/-
(YOGESH KUMAR U.S.)
JUDICIAL MEMBER

Sd/-
(MANISH AGARWAL)
ACCOUNTANT MEMBER

Dated: 10.10.2025

PK/Sr. Ps

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI