

**IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR
(PHYSICAL HEARING)**

**BEFORE Shri MANOJ KUMAR AGGARWAL, ACCOUNTANT
MEMBER**

AND SH. UDAYAN DASGUPTA, JUDICIAL MEMBER

**I.T.A. No. 208/Asr/2019
Assessment Year: 2011-12**

Emm Kay Electricals 4, Bhagat Singh Chowk Jalandhar City, Jalandhar, Punjab [PAN: AAAFE9664L] (Appellant)	Vs.	ACIT CENTRAL CIRCLE II, JALANDHAR. (Respondent)
Appellant by	:	Sh. Sandeep Vijh, CA
Respondent by	:	Sh. Sunil Gautam , CIT-DR
Date of Hearing	:	16.12.2025
Date of Pronouncement	:	08.01.2025

ORDER

Per: Udayan Dasgupta JM

- 1) This appeal is filed by the assessee against the order of the Ld CIT (A) – 5, Ludhiana , passed u/s 250(6) of the Income Tax Act 61(*henceforth the Act*) , dated 17th January, 2019, which has arisen

from the order of the AO, Circle – II , Jalandhar, passed u/s 153C/143(3) of the Act, dated 21/03/2014.

- 2) The grounds of appeal taken by the assessee in Form 36 are as follows :
1. The Ld CIT (A) has erred in sustaining the order u/s 153C read with section 143(3) which is bad in law. The submissions made have not been appreciated.
 2. The Ld CIT(A) has erred in upholding the disallowance of Rs.63,00,000/- in respect of advance given which could not be recovered.
 3. The Ld CIT(A) has erred in rejecting the contention that the disallowance sustained , in any case could not have been made in the order u/s 153C read with section 143(3).
 4. The Ld CIT(A) has erred in sustaining the levy of interest u/s 234A,234B and 234C .
- 3) Brief facts emerging from records are that in pursuance of a search u/s 132(1) of the Act , on the sister concerns of the assessee namely (i) *M/s Emkay Industries Ltd* and (ii) *M/s G E Conductors Pvt Ltd* , Jalandhar , on 3rd August, 2011, incriminating materials relating to this assessee was found and proceedings were initiated

u/s 153C on 12/08/2013 , after recording necessary satisfaction, as per provisions of the Act, and finally assessment completed u/s 153C/143(3) with an addition of Rs. 63 lakhs on account of disallowance of claim of business loss (arising out of forfeiture of advance payment) and also by assessing the surrendered income of Rs. 2.5 crores to be taxed u/s 69A of the Act.

- 4) The matter carried in appeal before the Ld CIT (A) , has been disposed off, by admitting the contention of the assessee on the issue of *section 69A of the Act* , by accepting the surrendered income as business income and by dismissing the contention of the assessee on the addition of *Rs.63 lakhs* and sustaining the same.
- 5) Now the assessee is before the tribunal on the grounds contained in the memorandum of appeal .
- 6) The assessee has filed paper book containing written submissions and supporting decisions of various courts and tribunals and at the very onset the Ld AR of the assessee, submitted that in the instant case the Ld first appellate authority was not justified in ignoring to adjudicate on the legal issue taken by the assessee in *ground No 1(a) of the amended grounds* , before him that “ *the order u/s 153C read with section 143(3) is bad in law* ”, where detail

submissions on this ground was made before the Ld first appellate authority , submitting that in the instant case the *satisfaction note* has not been recorded in the files of the searched person and the copy of the satisfaction note (*as enclosed in pb page – 15*) shows recording of satisfaction only in the case of the assessee , which does not comply with the requirements of the provisions of the Act , in support of which the Ld AR relied on the decision of the *Hon'ble Apex court in the case of Manish Mahershwari vs ACIT 289 ITR 341* and on various other decisions placed in paper book .

- 7) The Ld AR further took us to *page 16 of the CIT (A) order paragraph – 4.1* relating to amended grounds of *appeal -1(a)* , to state that the Ld first appellate authority has mentioned, that the assessee has not filed any specific arguments on this ground and it does not require separate comments , and thereafter, the Ld CIT (A) has proceeded to decide the issue on successive grounds on merits of the case , without proceeding and adjudicating on the legal issue raised by the assessee relating to recording of *satisfaction note* in the files of the person seized , as per the requirement of provisions of section 153C and the elaborate written submissions which has been filed in course of first appeal has been ignored or not considered and he prayed for remanding

the matter back to the files of the Ld first appellate authority so that the said legal issue may be adjudicated as per law.

- 8) The Ld DR relied on the order of the Ld CIT(A) on merits and on the legal issue agitated by the Ld AR , he submitted that one satisfaction note recorded by the same AO having jurisdiction, (*both over the searched person and the other person*) , in the files of the other person, is adequate compliance, as long as it demonstrates that the AO was satisfied that seized materials pertains to the *other person* and in support he relied on the Hon'ble Apex court in the case of *Supermalls Pvt Ltd v PCIT civil appeal no .2006-2007 of 2020 (arising out of SLP(c) 8449-50/2017) dated 5th March, 2020*, but he has no objection if the matter is remanded back for adjudication on the legal matter.
- 9) We have heard the rival submission and we are of the opinion that the legal issue raised by the Ld AR of the assessee has not been considered and adjudicated upon by the *Ld first appellate authority* even though elaborate written submissions on the legal issue along with supporting case laws has been filed by the assessee in course of first appeal.

10) As such in the interest of justice we remand the matter back to the Ld CIT(A) , for adjudication on the *ground No 1(a) as reproduced in the appellate order page -2* , on merits of the case after considering the legal submissions raised by the assessee and the assessee is also directed to file all submissions along with supporting judicial precedents and documentary evidences in support of his contention and to fully cooperate in the appellate proceedings.

11) We have not expressed any opinion on merits and all legal issues are left open.

12) In the result the appeal of the assessee is allowed for statistical purpose.

Order pronounced on 08.01.2026 under Rule 34(4) of the Income Tax Appellate Tribunal Rules 1963.

Sd/-

Sd/-

(MANOJ KUMAR AGGARWAL)

(UDAYAN DASGUPTA)

Accountant Member

Judicial Member

Copy of the order forwarded to :

- (i) The Appellant
- (ii) The Respondent
- (iii) The CIT
- (iv) The DR , ITAT .