

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

**BEFORE SHRI ANUBHAV SHARMA, JUDICIAL MEMBER &
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER**

**ITA No.395/Del/2021
[Assessment Year:2017-18]**

Deputy Commissioner, of Income Tax, Central Circle- 27, Room No.348, 3 rd Floor, E-2, ARA Centre, Jhandewalan Extension, New Delhi-110055	Vs	M/s Krrish Realtech Private Limited, 406, 4 th Floor, Elegance tower-8, Jasola district Centre, New Delhi-110025
		PAN AAECK0193K
Appellant		Respondent

Revenue by	Shri Dayainder Singh Sidhu, CIT(DR)
Assessee by	Shri Vinod Kumar Bindal, CA & Ms. Rinki Sharma, ITP

Date of Hearing	09.12.2025
Date of Pronouncement	16.01.2026

ORDER

PER AMITABH SHUKLA, AM,

The captioned appeal has been preferred by the Revenue against order dated 27.01.2021 of the Commissioner of Income Tax (Appeals)-29, New Delhi, [hereinafter referred to as 'Id. CIT(A)'] arising out of assessment order dated 31.12.2019 passed u/s 143(3) of the Income Tax Act, 1961 pertaining to Assessment Year 2017-18. The word 'Act' herein this order would mean Income Tax Act, 1961.

2. Assailing the order of the ld. CIT(A) (supra), the Revenue has raised following grounds of appeal:-

“1. That on the facts and in the circumstances of the case, the Ld. CIT (A) has erred in law and on facts in deleting the addition of Rs. 24,75,00,000/- on account of undisclosed income u/s 69A of the Income Tax Act, 1961.

2. That the order of the CIT (A) is perverse, erroneous and is not tenable on facts and in law.”

3. We have noted that the solitary ground of appeal raised by the Revenue concerns deletion of the addition of Rs,24.75 Crores by the ld. CIT(A), which was made by the ld. AO invoking provisions of section 69A of the Act. Brief facts of the case are that the assessee company filed its return of income on 31.03.2018 vide acknowledgement No. 591688511310318 declaring a loss of Rs. 55,76,619/-. During the course of search action held on 16.05.2017 at the Krrish group of companies premises certain documents/digital evidences were seized. On analysis of the whatsapp messages of Sh. Amit Katyal Mobile No. 8826195032 it was found that Shri Amit Katyal had received whatsapp messages from Shri R.P. Gupta regarding cash receipts amounting to Rs. 24.75 Crores. The ld. AO noted that Shri Katyal holds 99.99% shares of the company. The ld. AO queried the assessee about the impugned message and unsatisfied with the explanation given proceeded to make an addition of the said amount of Rs. 24.75 cr. to the income of the appellant u/s 69A of the Act. The ld.

CIT(A) deleted the impugned addition observing as under in its order at para-7 to 7.4 on pages 18 to 20:-

“....7. Ground Nos. 2 and 3: I have carefully gone through the assessment order, the facts of the case and the written submissions of the appellant. The Assessing Officer has made an addition of Rs. 24,75,00,000/- in the hands of the assessee on the basis of a WhatsApp message sent to Mr Amit Katyal on his mobile phone by Mr. RP Gupta in which there is no mention of the name of the assessee nor about the project to which it pertained. The A.O has linked the said message to the assessee It has been submitted by the appellant that the search did not yield any evidence to show that the alleged amount pertained to the appellant or was ever received by the appellant in any manner as no such amount or any evidence of the movement of the said money to /from the appellant was found during the course of search in the premises of the group,

7.1 On perusal of the findings of the AO in the assessment order, the written submissions made by the assessee and other evidence on record, it is seen that the addition has been made by the AO on surmises as there is no evidence of the said amount being received by the assessee nor the area of plots alleged to be so sold by the assessee nor the period during which the same were sold by the assessee. The name of the assessee is not at all mentioned in the seized WhatsApp message from one Mr. Rajendra Prasad Gupta who admittedly was a consultant of the group to Mr. Amit Katyal. Mr Gupta even on confrontation did not mention the name of the assessee whose plots of land could be the subject matter of the message. None of the persons of the group ever stated that it was the assessee who was plotting the land. As per contention of the assessee, the company was never carving out the plots of land for sale from bigger plots of land but was engaged in building multi-storied flats in District Gurgaon (Haryana).

7.2 Though, in para 12 of the assessment order, the AO refers to copies of some seized agreements to plots of land but has not mentioned any case where the seller was the assessee. Further, no enquiry from any buyer of the said plots of land as to payment of any undisclosed consideration over

and above the declared consideration has been mentioned in the Assessment Order. The AO has mentioned that as per those agreements, the rates were in the range of Rs. 35,000/- to Rs. 42,000/- per square yard which is above the rate of Rs. 33,500/- mentioned in the message. It is not the case of the AO that in those seized agreements there was any reference to some cash component outside the books of account much less the rate adopted by the AO in the assessment order as undeclared cash component.

7.3 Moreover, the AO is also not sure as to whose income the said amount is assessable as in para 13 of the assessment order, he has categorically held that the said amount of Rs.24,75,00,000/- is an undisclosed income of Mr. Amit Katyal and not of the appellant.

7.4 Further, the assessment order has not mentioned any evidence showing receipt of such a huge amount in cash by the assessee or anybody else in the group. No evidence for the corresponding utilization of the alleged amount was also found during the course of search as the assessment order is silent on the same. The said cash was not unearthed physically during the search in any premises of the group nor any document regarding the said sale of large number of plots of land were found during the search. In view of the above the addition made u/s 69A of the Act cannot be sustained. Accordingly, the addition of Rs. 24,75,00,000/- is deleted.

Since the appellant gets relief on the main grounds, therefore the other grounds of appeal are not being adjudicated upon....”

4. Per contra, the ld. DR relied upon the order of the ld. Assessing Officer. It was contended that Shri Amit Katyal is the key person and hence the addition made by the ld. AO was correct.

5. The ld. Counsel for the assessee, Shri Vinod Bindal, CA, vehemently argued against the challenge posed by the Revenue. It was submitted that notwithstanding the shareholding of the assessee company by Shri Amit

Katyal, the two are independent entities and assesseees. It was contended that no incriminating document was found in the hands of the assessee company to warrant any addition in its case. The ld. Counsel argued that whatsapp messages exchange between two independent entities cannot justify any addition in the hands of the assessee. The ld. Counsel further argued that no compliance was made to provisions of section 65B(4) of the Evidence Act before utilizing the contents of electronic evidence in this case being the whatsapp message.

6. We have heard the rival submissions in the light of material placed on record. We find sufficient force in the arguments of the assessee that whatsapp messages exchange between two independent entities cannot justify any addition in its hands. It is an undisputed facts on records that the whatsapp message was exchange between Shri Amit Katyal and Shri R.P. Gupta, who are two independent entities. Even if assuming that the message to Shri Amit Katyal was regarding the cash receipt pertaining to the assessee company, no such further evidence has been brought by the Revenue to suggest any actual exchange of cash or to the connection of the impugned cash as unaccounted income of the assessee. As we have noticed that the whatsapp message per se does not have any connection with affairs of the company and was a private communication between Shri Amit Katyal and Shri R.P. Gupta, who are two independent entities, the arguments

concerning invocation of provisions of section 65B(4) of the Evidence Act have been found to be not worthy of any further consideration.

7. We have also noted that Id. CIT(A) has extensively dealt with the issue on pages-18 to 20 of this order while correctly appreciating the facts of the case. We are in full agreement with the conclusions drawn and decision taken by the Id. First Appellate Authority. In this regard we rely upon the order of Hon'ble Delhi High court in the case of Global Vantage Pvt Ltd dated 14.03.2013 considering ITA No.1828- 1829 / Del / 2010 and ITA No.1254 / Del / 2011 holding as under:-

*“....The learned counsel for the revenue contended that it was incumbent upon the Tribunal to have recorded its own findings rather than merely confirming the findings of the CIT (Appeals). However, the learned counsel for the respondent/ assessee drew our attention to the Supreme Court decision in the case of **CIT v. K.V. Pilliah and Sons : (1966) 63 ITR 411 (SC)**, wherein, on a similar point having been raised, the Supreme Court observed as under: -*

“The Income-tax Appellate Tribunal is the final fact-finding authority and normally it should record its conclusion on every disputed question raised before it, setting out its reasons in support of its conclusion. But, in failing to record reasons, when the Appellate Tribunal fully agrees with the view expressed by the Appellate Assistant Commissioner and has no other ground to record in support of its conclusion, it does not act illegally or irregularly, merely because it does not repeat the grounds of the Appellate

Assistant Commissioner on which the decision was given against the assessee or the department. The criticism made by the High Court that the Tribunal had “failed to perform

its duty in merely affirming the conclusion of the Appellate Assistant Commissioner” is apparently unmerited.”

8. Accordingly, we are of the considered view that the order passed by the Ld.AO therefore does not require any intervention at this stage. The order of the Ld.CIT(A) is therefore sustained. Accordingly, the ground of appeal raised by the Revenue is therefore dismissed.

9. In the result, the appeal of the Revenue is dismissed.

Order pronounced in the open court on 16th January, 2026

Sd/-
[ANUBHAV SHARMA]
JUDICIAL MEMBER
Dated: 16.01.2026

Sd/-
[AMITABH SHUKLA]
ACCOUNTANT MEMBER

Shekhar

Copy forwarded to:

1. Appellant
2. Respondent
3. PCIT
4. CIT(A)
5. DR

Asst. Registrar,
ITAT, New Delhi