

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "C": NEW DELHI**

**BEFORE SHRI S RIFAUZ RAHMAN, ACCOUNTANT MEMBER
AND SHRI VIMAL KUMAR, JUDICIAL MEMBER**

ITA No.2685/DEL/2023
Assessment Year 2016-17

JR Modi Associates Ltd., 22 Lower Ground Floor, SIRI FORT Road, Delhi: 1100 49 PAN No. AAACJ2950M	Vs.	Deputy Commissioner of Income Tax, Circle 13(1), New Delhi
(Appellant)		(Respondent)

Assessee by:	Shri Priyansh Jain, CA
Department by:	Shri Om Prakash, Sr. DR
Date of Hearing:	04.11.2025
Date of pronouncement:	28.01.2026

ORDER

PER VIMAL KUMAR, JUDICIAL MEMBER:

The appeal filed by the assessee is against order dated 09.08.2023 of Learned Commissioner of Income Tax (Appeals)-29, New Delhi [hereinafter referred to as 'Ld. CIT(A)] under Section 250 of the Income-Tax Act, 1961 (hereinafter referred to as 'the Act') arising out of assessment order dated 25.12.2018 of Learned Assessing Officer/Deputy Commissioner of Income Tax, Circle 13(1), New Delhi (hereinafter referred to as "Ld. AO")

passed under section 143(3) of the Act for assessment year 2016-17.

2. Brief facts of the case are that the assessee company is engaged mainly as builder & developer apart from real estate consultant. Return of income declaring total income of Rs.50,91,290/- was filed by the assessee company electronically on 09.09.2016, which was later revised on 15.09.2016 declaring total income of Rs.50,56,404/-. The case was selected for complete scrutiny through CASS. Notice under Section 143(2) of the Act dated 18.07.2017 was issued. Notice under Section 142(1) I.T. Act along with detailed questionnaire dated 07.02.2018, 03.04.2018, 03.12.2018 were issued. Sh. Raj Kumar Chhabra, CA/A.R. of the assessee company attended the proceedings from time to time and furnished the requisite details/information. The same have been examined on test check basis and the case was discussed with him. On assessee's request, the scrutiny was conducted manually for which approval was granted by Pr. CIT-05, New Delhi. On completion of proceedings, Ld. AO vide order dated 25.12.2018 made addition of Rs.45,00,000/- and Rs.7,200/-.

3. Against order dated 25.12.2018 of Ld. AO, the appellant/assessee filed appeal before Ld. CIT(A) which was dismissed vide order dated 09.08.2023.

4. Being aggrieved, appellant/assessee preferred present appeal on following grounds:

“1. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of Ld. AO in passing the impugned assessment order and that too without assuming jurisdiction as per law and without complying the statutory conditions as stipulated u/s 143(2) and 143(3) of Income Tax Act, 1961 ("the Act").

2. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of Ld. AO in making addition of Rs. 45,00,000/- u/s 68 of the Act and that too by recording incorrect facts findings and by disregarding the submissions, evidences and material placed by the assessee. and in violation of principal of natural justice.

3. That in any case and in the view of the matter, action of Ld. CIT(A) in confirming the action of Ld. AO in making addition of Rs. 45,00,000/- u/s 68 is bad in law and against the facts and circumstances of the case.

4. That in any case and in any view of the matter, action of Ld. CIT(A) in passing the impugned assessment order and additions made therein are illegal, bad in law, contrary to law and facts, void ab-initio and not sustainable on various legal and factual grounds.

5. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in not reversing the action of Ld. AO in charging interest u/s 234B, 234D and 244A and initiating proceedings u/s 271(1)(c) of Income Tax Act, 1961.

6. That the appellant craves the leave to add, modify, amend or delete any of the grounds of appeal at the time of hearing and all the above grounds are without prejudice to each other.”

5. Learned Authorised Representative for the appellant/assessee submitted that during the year, the appellant received an advance of ₹45,00,000/- from Shri Parvesh Kumar (PAN: ALHPP7964L) son of Sh. Bhim Singh Bhati resident of Village Sihi, Tehsil & Distt. Gurgaon, Haryana for sale of property at 248, Village Masjid Moth, New Delhi. Copy of signed confirmation along with copy of PAN is enclosed as PB 1-2. Copy of executed agreement dated 26.05.2015 between the company and Shri Parvesh Kumar for sale of property located at 248, Village Masjid Moth, New Delhi-110049, situated in the Lal-Dora Abadi of Village Masjid Moth, New Delhi-110049 is enclosed as PB 3-6). Copy of audited financial statements of the appellant for FY 2015-16 is enclosed as PB 7-29 wherein at PB 17 advance against property amounting to Rs.45,00,000/- is shown. Subsequently, on account of personal reasons and by mutual consent between the appellant and Shri Parvesh Kumar, a tripartite agreement was executed. Under this agreement, the

earlier arrangement was cancelled, and Shri Parvesh Kumar directly purchased Flat No. C-810 at Paras Tiera, Sector 137, Noida (U.P.) from M/s. Paras Info Solutions Private Limited for a total consideration of Rs.75,00,000/-. In terms of the said tripartite agreement, the advance of Rs.45,00,000/- earlier paid by Shri Parvesh Kumar to the appellant was adjusted in the books of account against M/s. Paras Info Solutions Private Limited, from whom a sum of Rs.55,00,000/- was recoverable by the appellant as on 31.03.2016. This fact is corroborated by PB-20, which clearly reflects the said recoverable amount of ₹55,00,000/- standing in the name of M/s. Paras Info Solutions Private Limited in audited financial statements. PB 30-33 is the copy of triparty agreement dated 23.09.2016 as entered between the appellant, M/s. Paras Info Solutions Private Limited and Mr. Parvesh Kumar. Perusal of the same would show that Mr. Parvesh Kumar and M/s. Paras Info Solutions Private Limited entered into agreement to sale for property located at C-810 at Paras Tiera, Sector 137, Noida (UP) and advance impugned advance of Rs.45,00,000/- already received by the appellant from Mr. Parvesh Kumar was endorsed to be M/s. Paras Info Solutions Private Limited. PB 34 is the copy of confirmed ledger a/c of Shri

Parvesh Kumar for FY 2016-17 acknowledging that amount of Rs.45,00,000/- received as advance by the appellant company has been endorsed to M/s. Paras Info Solutions Private Limited. Copy of audited financial statements of the appellant for financial year 2015-16 is enclosed as PB 7-29 wherein at PB 20 amount of Rs.55,00,000/- receivable as on 31.03.2018 by the appellant from M/s Paras Info Solutions Private Limited has been disclosed.

5.1 In remand proceedings, notices under Section 133(6) were issued, served and replied by both Shri Parvesh Kumar and M/s Paras Info Solutions Pvt. Ltd. The same is evident from perusal of para 6.2 (PB 52-53) of the remand report. Since, Shri Parvesh Kumar expired on 03.03.2018 reply on his behalf was filed by his wife who duly accepted the transaction entered by her late husband with the assessee. In addition to signed confirmation of accounts, copy of agreement dated 26.05.2015 between the assessee and her late husband was also provided by her vide which impugned amount of Rs. 45,00,000/- was received by the assessee. Further, copy of triparty agreement dated 23.03.2016 was also provided between Shri Parvesh Kumar, Paras Infosolutions Private Limited and J. R. Modi Associates Ltd Thus,

wife of Late Shri Parvesh duly confirmed the payment of cash and transaction entered by her husband with the assessee and genuinity of the same cannot be challenged.

5.2 Additionally, M/s Paras Infosolutions Private Limited also complied with the notice issued by the Ld. Assessing Officer under Section 133(6) of the Act and certified the above facts, M/s Paras Infosolutions Private Limited in its reply to notice u/s 133(6) has clarified that it is also in the business of real estate and has regular business transactions with the assessee. Copy of confirmed ledger account for FY 2015-16, ITR-V for A.Y. 2016-17 along with triparty agreement between assessee; Shri Parvesh Kumar and M/s Paras Infosolutions Private Limited was also submitted by it directly to the Ld. AO which further buttress the claim of the assessee. Another, notice under Section 133(6) was issued by the Ld. AO to which also M/s Paras Infosolutions Private Limited duly replied. In the said reply M/s Paras Infosolutions Private Limited clarified that on 08.04.2008, M/s J.R. Modi Associates Limited advanced a sum of Rs.55,00,000/- to them in regular course of business and also submitted copy of its bank statement to the Ld. AO showing amount received from M/s J.R. Modi Associates Ltd. along with its copy of audited

financial statements for FY 2015-16 showing amount payable by it to M/s J.R. Modi Associates Ltd as on 31.03.2015. Further, it was reiterated that M/s J.R. Modi Associates Ltd. and Shri Parvesh Kumar entered into an agreement dated 26.05.2015 vide which Shri Parvesh Kumar agreed to purchase flat 248, 1st and 2nd floor, village Masjid Moth and paid an advance of Rs. 45,00,000/- to M/s J.R. Modi Associates Ltd. and the said agreement was subsequently cancelled. Later on 23.09.2016, it entered into an agreement to sale with Parvesh Kumar for sale of Flat No.C-810 at Paras Tiera, Sector 137, Noida (UP) for a total consideration of Rs. 75,00,000/- and in order to discharge amount due by them to M/s J.R. Modi Associates Ltd. it was mutually decided by the above agreement to adjust part consideration of Rs. 45,00,000/- receivable by it from Shri Parvesh Kumar for sale of Flat No.C-810 at Paras Tiera, Sector 137, Noida against their outstanding dues to M/s J.R. Modi Associates Ltd.

5.3 The above replies by wife of Late Shri Parvesh Kumar and M/s Paras Infosolutions Private Limited along with documentary evidences submitted directly by them to the Ld. AO.

6. Learned Departmental Representative relied on order of Ld. CIT(A).`

7. From examination of record in light of above stated rival contentions, it is crystal clear that Ld. CIT(A) vide order dated 09.08.2023 upheld the order of Ld. AO dated 25/12/2-19 making an addition of Rs.45,00,000/- under Section 68 of the Act. Ld. CIT(A) in para nos. 7.4 and 7.5 held as under:

“7.4 Further, from a perusal of facts, following observations are made:

- The advance was statedly made in cash by Sh. Parvesh Kumar for the purchase of some property at Masjid Moth, New Delhi in May, 2015
- Since the advance was made in cash, appellant was called upon to explain why the provisions of section 269SS are not attracted in this case during the course of appellate proceedings. Appellant has submitted that prior to 01.06.2015, the provisions of section 269SS were applicable only for loans and deposits and only wef 01.06.2015, the provisions were amended to include any specified sum. It is interesting to note that the stated agreement was entered into by the appellant on 25.05.2015. This agreement is not notarized and the e-stamp is dated 23.04.2015. The stated consideration for the property was 50 lakhs out of which 45 lakhs have been statedly paid by the lender in cash and has no banking trail evidencing payment on the said date.
- The address of witnesses to this agreement are extremely sketchy
- It is equally interesting to note that the address of stated lender as provided is as sketchy as: Parvesh Kumar, village-Sihi, Tehsil & Distt. -Gurgaon, Haryana

- In spite of the 90% of payment being made in one transaction, the deal did not materialize
- Even after the cancellation of agreement and settlement of advance against purchase of another property at Flat No. C-810, Paras Tiera, sector 137, Noida from Paras Infosolutions Pvt. Ltd. through a tri-party agreement, dated 23.09.2016, the transfer of even this property did not materialize as reported by the AO in remand report dated 14.06.2022. Thus the transfer of either of the properties did not happen even after a period of 6 years

Thus, the genuineness of the transaction is highly suspicious in view of above observations.

7.5 To sum up, out of the three basic ingredients identity, creditworthiness and genuineness, two essential ingredients, being creditworthiness and genuineness have not been established at all by the appellant. The contention of the appellant that the credit outstanding in the books is an advance received against the agreement for sale of property does not sound to be convincing as neither the transfer of property has been effected till date, nor has the sum been returned back by the alleged lender. The advance for 90% of the sale consideration in cash itself raises doubts on the genuineness of the same. No prudent person would abandon a transaction after paying 90% of the consideration in cash and keep the amount lying with the receiver for a period as long as six years. In the result, the addition made by the AO is confirmed.”

8. The agreement to sell dated 25.05.2015 at page nos. 3 to 6 of papers books is valid agreement executed on proper stamp paper duly confirmed by both the parties. Appellant/assessee recorded transactions in the regular books of accounts and the concerned parties had independently confirmed the same in response to notices by Ld. AO. Copy of audited financial

statement of the assessee is at pages 7 to 29 of papers books including page no.17 mentioning advance against property amounting to Rs.45,00,000/-. Ld. CIT(A) observed that transaction between Shri Parvesh Kumar and M/s. Paras Infosolutions Pvt. Ltd. for sale and purchase of Flat No.C-810 at Paras Tiera, Sector 137, Noida and has not attained finality despite so many years. The transaction in both Shri Parvesh Kumar and M/s. Paras Infosolutions Pvt. Ltd. are unrelated to the assessee company and neither the assessee nor any of its directors have any control over these two distinct parties. After executing the triparty agreement dated 23.03.2016 with Parvesh Kumar and M/s. Paras Infosolutions Pvt. Ltd. for purchase of Flat No. C-810 at Paras Tiera, Sector 137, Noida by Shri Parvesh Kumar from M/s. Paras Infosolutions Pvt. Ltd. and endorsement of sum of Rs.45,00,000/- received by assessee from Shri Parvesh Kumar to M/s. Paras Infosolutions Pvt. Ltd., the assessee had no business dealing with Shri Parvesh Kumar. In view of above material facts, it is evident that the assessee proved genuineness of the transaction and creditworthiness of the parties. Therefore, impugned orders of Ld. Departmental Authorities being not just,

fair, reasonable and legal, are set aside. Grounds of appeal nos. 1 to 6 are accepted.

9. In the result, the appeal of filed by the assessee is allowed.

Order pronounced in the open court on 28th January, 2026.

Sd/-

**(S RIFAUH RAHMAN)
ACCOUNTANT MEMBER**

Sd/-

**(VIMAL KUMAR)
JUDICIAL MEMBER**

Dated: 28 /01/2026
Mohan Lal

Copy forwarded to -

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi