

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

**Before Sh. Satbeer Singh Godara, Judicial Member
&
Sh. Amitabh Shukla, Accountant Member**

ITA No. 3358/Del/2024 : Asstt. Year : 2018-19

Income Tax Officer, Ward-16(3), New Delhi-110002	Vs	MB Infrabuild Pvt. Ltd., House No. 863, Sector-13, Veer Apartment, Rohini, New Delhi-110085
(APPELLANT)		(RESPONDENT)
PAN No. AAHCM5701E		

**Assessee by : Sh. Raghav Sharma, CA,
Sh. Mohit Gupta, CA &
Ms. Agni Choudhary, Adv.
Revenue by : Ms. Ankush Kalra, Sr. DR**

Date of Hearing: 07.01.2026	Date of Pronouncement: 07.01.2026
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ORDER

Per Satbeer Singh Godara, Judicial Member:

This Revenue's appeal for Assessment Year 2018-19, arises against the CIT(A)/NFAC, Delhi's DIN & order No. ITBA/NFAC/S/250/2024-25/106607632(1) dated 25.06.2024, in proceedings u/s 147 of the Income Tax Act, 1961 (in short "the Act").

2. Heard both the parties at length. Case file perused.
3. The Revenue's sole substantive ground raised in the instant appeal seeks to reverse the learned CIT(A)/NFAC lower appellate findings deleting the impugned addition of Rs.1,10,00,000/- allegedly representing the assessee's cash

receipts made in assessment order dated 30.03.2023; reading as under:

11. Vide ground no 3 & 4 appellant challenges that AO erred in facts & law in making addition of Rs.1,10,00,000/- on account of cash receipts bad in law, the data / information available with AO is not correct and not reliable, arbitrary rejecting without rebutting the explanations and documentary evidences furnished by appellant, not given an opportunity of cross examination of Shri Sumit Jindal and also the concern person of the entities of M/s RKS Builder & M/s VRS Ventures to whom the Ld. AO has relied upon and by indulging into conjectures and surmises and without bringing on record any credible material.

Thus, the appellant challenged that the action of the AO is totally wrong, bad in law and has been made without application of mind and needs to be quashed.

The documents/ information received by the AO is part of assessment order and background that a search was conducted at the residence of Shri Sumit Jindal from where a Mini Ledger was seized. The document contained date wise and person wise investment in Beverly Golf Avenue project by the assessee. The documents further indicates receipt of cash during the year under consideration as per details below:

<i>Sl. No.</i>	<i>Date</i>	<i>Name of party</i>	<i>Amount</i>
<i>1.</i>	<i>11.05.2017</i>	<i>VRS Ventures</i>	<i>Rs.10,00,000/-</i>
<i>2.</i>	<i>17.05.2017</i>	<i>RKS Builders & Promoters</i>	<i>Rs.1,00,00,000/-</i>

On perusal of assessment order, para 5 which is important on the issue of addition made by AO, the same is again reproduced here under:

It has been also reported that on perusal of the ledger show that on 27/03, Sh. Sumit Jindal has remitted '20' plus '20' through RTGS. Similarly, he has remitted '70' through RTGS on 28/3. During the course of post search investigation, bank statement of Sh. Sumit Jindal's account bearing no. 088001500392 held with ICICI Bank Ltd. Kitchlu Nagar, Ludhiana, the above three payments of 20,00,000/-, 20,00,000/- and 70,00,000/- have been made by debiting the said account on 27.03.2017 & 28.03.2017 respectively. Further, analysis of above running account show (apart from payment through RTGS/Cheque) following unexplained cash investments have been made in the project of M B Infrabuild Pvt.

Limited during the F. Yr. 2017-18 relevant to the A. Yr. 2018-19.

Further following analysis has also been drawn on the post search investigation.

Sh. Sumit Jindal

<i>Date</i>	<i>Amount (In Rs.)</i>	
<i>08.11.2016</i>	<i>5,00,000/-</i>	
<i>12.11.2016</i>	<i>90,00,000/-</i>	
<i>16.11.2016</i>	<i>1,00,00,000/-</i>	<i>Total 1,95,00,000/-</i>

Sh. Rajesh Arora

<i>Date</i>	<i>Amount (In Rs.)</i>	
<i>12.11.2016</i>	<i>1,30,00,000/-</i>	
<i>29.11.2016</i>	<i>45,00,000/-</i>	<i>Total 1,75,00,000/-</i>

M/s VRS Ventures

<i>Date</i>	<i>Amount (In Rs.)</i>	
<i>11.05.2017</i>	<i>10,00,000/-</i>	<i>Total 10,00,000/-</i>

M/s RKS Builders & Promoters

<i>Date</i>	<i>Amount (In Rs.)</i>	
<i>17.05.2017</i>	<i>1,00,00,000/-</i>	<i>Total 1,00,00,000/-</i>

As mentioned, the above information was based upon post-search investigation. Further AO has reproduced some of the seized materials and reply of the Sumit Jindal but AO has not connected to above entries with the reproduced documents in the final addition made by him. These documents were found at the place of a third party i.e. at the residence of Shri Sumit Jindal. The documents seized do not belong to the appellant. On perusal of these documents, there is no signature of the appellant. Further, documents are not in writing of the person to whom seized (as replied by Sumit Jindal mentioned in assessment order). No statement u/s.132 of the Act on the entries on which addition made on the appellant by the AO. As the entries on which addition made by AO are on the basis of analysis made during post search investigation but there is no statement of Sumit Jindal on confronting the same on arrival at the conclusion. During the course of assessment proceedings, AO has not examined the person i.e. Sumit

Jindal for the genuineness of the entries as there were no signed documents and no question related to the entries on which additions were made. Further, on submission of the reply of the appellant that these same amount entries are part of his books of accounts and same has been treated as 'booking receipts'; the appellant also submitted copy of ledger and details of both the parties but AO has not rebutted the explanation submitted by the appellant. During the assessment proceedings, AO made addition without making any enquiry on the information against the appellant and did not establish the facts to arrive at the conclusion for addition made u/s.69A of the Act. Further, if any documents/ statements of other person are used against the appellant, the cross examination has to be provided. Since, there was no statement u/s.132 of the Act, on the basis of which addition made and AO made addition on the basis of post search investigation information related to appellant received by him and no statement or confrontation done on such information by the DDIT/AO. Further, AO even failed to rebut the explanation submitted by the appellant. AO did not make any further inquiry/ investigation on the information. No attempt or effort was made to gather or corroborate evidence in this relation. The jurisdictional High Court judgement on similar facts is supported this view [2020] 118 taxmann.com 432 (Delhi) HIGH COURT OF DELHI in the case of Commissioner of Income-tax v. Sant Lal.

Therefore, without establishing the facts and evidence, AO made addition u/s.69A of the Act of Rs.1,10,00,000/- which is liable to be deleted.

Hence, addition made of Rs.1,10,00,000/- u/s.69A of the Act by AO is hereby deleted. Accordingly, ground no 3 and 4 of appeal are hereby allowed."

3.1 This is what leaves the assessee aggrieved.

4. Both the parties vehemently reiterate their respective stands against and in support of the CIT(A)'s foregoing detailed discussion. The Revenue's case more particularly is that the same is indeed based on the statement of Sh. Sumit Jindal as well as the twin concerns M/s RKS Builders & Promoters and

M/s VRS Ventures' records which ought to have been upheld in both the lower proceedings. It is further reiterated that even the dates of payment i.e. 11 & 17.05.2017 had been duly incorporated therein which represented investments made in the assessee's project namely M/s Beverly Golf Avenue.

5. The assessee on the other hand pleads strong reliance on the CIT(A)'s above extracted detailed discussion deleting the impugned addition.

6. We have given our thoughtful consideration to the Revenue's and the assessee's respective submissions. We find no reason to revive the impugned addition. We wish to make it clear that apart from drawing various inference against the assessee, learned Assessing Officer had been even bothered to either offer any cross examination for the purpose of necessary verification nor the impugned addition is based on any seized material as rightly recorded in the CIT(A)'s detailed discussion. The Revenue has further failed to support the impugned addition by any other evidence as well. We thus see no reason to accept it's sole substantive ground which stands rejected in very terms.

7. This Revenue's appeal is dismissed.

Order Pronounced in the Open Court on 07/01/2026.

Sd/-

(Amitabh Shukla)
Accountant Member

Dated: 07/01/2026

Subodh Kumar, Sr. PS

Copy forwarded to:

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

Sd/-

(Satbeer Singh Godara)
Judicial Member

ASSISTANT REGISTRAR