

IN THE INCOME TAX APPELLATE TRIBUNAL

DELHI BENCH 'SMC-I, NEW DELHI

Before Sh. N.K. Saini, AM

ITA No. 1584/Del/2016

Asstt. Year 2005-06

Bhudeva Estates (P) Ltd. Flat No. 4, R.R.Apartments 3-4, Manglapuri, Mehrauli, New Delhi	Vs.	DCIT Cent. Circle-14 New Delhi
(Appellant)		(Respondent)
PAN No. AACCB3437B		

ITA No. 1590/Del/2016

Asstt. Year : 2006-07

Vinman Estates (P) Ltd. Flat No. 4, R.R.Apartments 3-4, Manglapuri, Mehrauli, New Delhi	Vs.	DCIT Cent. Circle-14 New Delhi
(Appellant)		(Respondent)
PAN No. AACCG2074P		

Appellant by : Sh. Gautam Jain, CA

Respondent by : Sh. V.R. Sonbhadra, Sr. DR

Date of hearing : 26.05.2016	Date of Pronouncement : 26.5.2016
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ORDER

PER N.K.SAINI, AM :

These two appeals by the assessee are directed against the separate orders of the CIT(A)-26, New Delhi dated 18th January, 2016 and 7th January, 2016 for the assessment year 2005-06, 2006-07 respectively.

2. During the course of hearing, Ld. Counsel for the assessee was fair enough to concede that these appeals are academic in nature since, the Id. CIT(A) has decided the appeals in favour of the assessee while deciding the legal issue that no incriminating material was found. During the course of search, therefore, the AO could not have proceeded to frame the assessment u/s 153(A) of the Income Tax Act, 1961 (hereinafter referred to as the Act). He further submitted that in case the department files the appeal against the order of the Id. CIT(A) then liberty is to be given to the assessee to move an application for recalling the order of the ITAT for dismissal of the assessee's appeals. In his rival submissions, the Id. DR submitted that the appeals by the assesses deserve to be dismissed since these are

academic in nature as the legal issue raised by the has been decided by the Id. CIT(A) in assessee's favour.

3. I have considered the submissions of both the parties and carefully gone through the material available on record. In the present case, it is noticed that the Id. CIT(A) while deciding the appeals of the assesses allowed the legal grounds raised by the assesses by observing in para 13 of each of the impugned orders as under :

"13. In view of above analysis of legal view on the issue, the AO couldn't have proceeded to frame assessment u/s 153A in respect of year under consideration as no incriminating documents/ assets have been found during search operation pertaining to this year. This ground of appeal, is therefore, allowed."

4. In view of the above observations of the Id. CIT(A) the issues raised by the assessee on merit are academic in nature. I, therefore, dismiss the appeals of the assessee with a rider that in case the department challenges the orders of the Id. CIT(A) than the assessee will be free to move an application for recalling this order.

5. In the result appeals of the assessee are dismissed.

(Order pronounced in the Open Court on 26/05/2016)

Sd/-
(N.K.Saini)
ACCOUNTANT MEMBER

Dated : 26/05/2016

B.Rukhaiyar

Copy forwarded to :

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

ASSISTANT REGISTRAR