

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

**BEFORE SHRI O.P. KANT, ACCOUNTANT MEMBER  
AND  
SHRI KULDIP SINGH, JUDICIAL MEMBER  
[Through Video Conferencing]**

ITA No.6336/Del/2017  
Assessment Year: 2009-10

ACIT, Central Circle-18, New Delhi	<b>Vs.</b>	M/s. Utech Developers Ltd., 305, 3 <sup>rd</sup> Floor, Bhanot Corner, Pampost Enclave, GK-I, New Delhi
		<b>PAN :AAACU8713H</b>
<b>(Appellant)</b>		<b>(Respondent)</b>

Appellant by	Sh. H.K. Choudhary, CIT(DR)
Respondent by	Sh. M.P. Rastogi, Adv.

Date of hearing	08.07.2021
Date of pronouncement	16.07.2021

**ORDER**

**PER O.P. KANT, AM:**

This appeal has been filed by the Revenue against the order dated 29/08/2017 passed by the Learned Commissioner of Income-tax (Appeals) - 29, New Delhi [in short 'the Ld. CIT(A)'] for assessment year 2009-10 raising following grounds:

- 1. The Ld. CIT(A) has erred in not appreciating the fact that assessee failed to file expenses were for business purpose.*
- 2. The Ld. CIT(A) has erred on facts that the assessee has no revenue receipts shown in the profit and loss account during the*

*year. The assessee has established no nexus between the utilization of borrowed funds and the business activity of the assessee.*

3. *That the grounds of appeal are without prejudice to each other.*
4. *That the appellant craves leave to add, amend, alter or forgo any ground(s) of appeal either before or at the time of hearing of the appeal.*

**2.** We have heard rival submission of the parties on the issue in dispute and perused the relevant material on record. We find that the Ld. CIT(A) has deleted the addition observing as under :

*“6.1 I have considered the facts and circumstances of the case, submission of appellant and perused the original assessment order passed under section 143(3)/order of the then CIT(A)-29, Delhi dated 23.03.2016 and the order passed by the AO under section 153A r.w.s.143(3) of the IT Act. I find that there was no addition made by the AO on the basis of documents/details found during the search action carried out under section 132 of the IT Act. Further, the AO repeated the same additions as made in the order passed under section 143(3) of the IT Act I further find that on those additions the then CIT(A)-29, Delhi had passed the appellate order and had given relief on all the grounds and accordingly all the additions made by the AO were deleted. Thereby, it is observed that the order of the AO passed under section 153A/143(3) resulted into the same section 143(3) and second in the present assessment order. It is pertinent to note that there is no addition made on the basis of documents/details found during the search action carried out under section 132 of the IT Act. Under these circumstances and in view of the above discussions, I am of the view that since the same additions had been made by the AO in the original assessment order, therefore, making again additions on the same issues of the same amount was not justified. Further, I have gone through the appellate order of my predecessor and I agree with the decision taken by him on the issues involved, therefore, the AO is directed to delete the additions made by him of Rs.2,73,209/- and Rs.5,35,90,353/- respectively.”*

**3.** Thus, it is evident that in the year under consideration, addition in dispute were made in the original assessment order passed under section 143(3) of the Income-tax Act, 1961 (In short

'the Act'). Thereafter, consequent to search action in the case of the assessee, proceeding under section 153A of the Act were commenced and the Assessing Officer has simply reiterated the same additions. The Assessing Officer began computation from the returned income of the assessee and repeated the amount of addition made in the original assessment order. Thus, in nutshell, there is no new additions has been made in the 153A proceedings and therefore appeal by the Revenue in the present proceeding has become infructuous.

4. Accordingly, the appeal of the Revenue is dismissed.

***Order pronounced in the open court on 16<sup>th</sup> July, 2021.***

**Sd/-  
(KULDIP SINGH)  
JUDICIAL MEMBER**

**Sd/-  
(O.P. KANT)  
ACCOUNTANT MEMBER**

Dated: 16<sup>th</sup> July, 2021.

RK/-(DTDC)

Copy forwarded to:

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

Asst. Registrar, ITAT, New Delhi