

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'C' BENCH,
NEW DELHI (THROUGH VIDEO CONFERENCING)

BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER, AND
MS. SUCHITRA KAMBLE, JUDICIAL MEMBER

ITA No. 763/DEL/2016 [A.Y 2011-12]

ITA No. 764/DEL/2016 [A.Y 2012-13]

ITA No. 765/DEL/2016 [A.Y 2013-14]

Shri Harvansh Chawla
C-17, GF, East Nizamuddin
New Delhi

Vs.

The A.C.I.T
Central Circle - 5
New Delhi

PAN : ADDPC 7559 G

[Appellant]

[Respondent]

Date of Hearing : 09.09.2021

Date of Pronouncement : 09.09.2021

Assessee by : Shri Amit Goel, C.A.

Revenue by : Ms. Sunita Singh, CIT-DR

ORDER

PER N.K. BILLAIYA, ACCOUNTANT MEMBER,

These three separate appeals by the assessee are preferred against a consolidated order of the Commissioner of Income Tax [Appeals] - 24, New Delhi dated 27.05.2021 pertaining to Assessment Years 2011-12, 2012-13 and 2013-14.

2. Since the first appellate authority had disposed of the appeals by way of a consolidated order and since in the captioned appeals before us the grievances of the assessee are identical, therefore, all these appeal are disposed of by this common order for the sake of convenience and brevity.

3. Briefly stated, the facts of the case are that search and seizure operation u/s 132 of the Income-tax Act, 1961 [hereinafter referred to as 'The Act'] was carried out on 07.04.2016. Statutory notices u/s 153A of the Act were issued and served upon the assessee in response to which the assessee filed his return of income. Assessment was completed by making addition on account of disallowance of depreciation and on account of disallowance of interest expenses, though the quantum may differ in the captioned appeals.

4. As mentioned elsewhere, the date of search being 07.04.2016, assessment years under consideration were part of block of six Assessment Years. It is a settled law by the decision of the Hon'ble High Court of Delhi that in assessment framed u/s 153A of the Act, additions/disallowances should have direct nexus with incriminating material found at the time of search. This principle has been laid down by the Hon'ble High Court of Delhi in the cases of Kabul Chawla in 380 ITR 573 and Meeta Gutgutia Prop. M/s. Ferns, "N" Petals in ITA No.306 to 308/2017 dated 25.05.2017 and others. As the additions/ disallowances are not based on any incriminating material,

in light of the decision of the Hon'ble Jurisdictional High Court of Delhi, additions are directed to be deleted.

5. In Assessment Year 2013-14, ITA No. 765/DEL/2021, there is an addition of Rs. 2,02,548/- made on protective basis. The Assessing Officer has made substantive addition of this amount under the provisions of Black Money Act. In our considered view, once the substantive addition has been made under the Black Money Act, the same amount added under the I.T. Act would amount to double addition and since this is a protective addition, it becomes otiose.

6. In the result, all the three captioned appeals of the assessee in ITA Nos. 763, 764 and 765/DEL/2021 are allowed.

The order is pronounced in the open court on 09.09.2021 in the presence of both the rival representatives.

Sd/-

Sd/-

[SUCHITRA KAMBLE]
JUDICIAL MEMBER

[N.K. BILLAIYA]
ACCOUNTANT MEMBER

Dated: 09th September, 2021

VL/

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

Asst. Registrar,
ITAT, New Delhi

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