

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

**Before Sh. Raj Kumar Chauhan, Judicial Member
&
Sh. Brajesh Kumar Singh, Accountant Member**

ITA No. 3381/Del/2025 :Asstt. Year: 2011-12

ITA No. 3388/Del/2025 :Asstt. Year: 2012-13

Income Tax Officer, Ward-2(1), New Delhi-110002	Vs	Anova Infracon Pvt. Ltd., A-27, 2 nd Floor, Phase-I, Mathura Road, Mohan Co-operative Indl.A, New Delhi-110044
(APPELLANT)		(RESPONDENT)
PAN No. AAICA8999D		

Assessee by: Ms. Rajkumari, CA

Revenue by: Ms. Nimisha Singh, CIT-DR

Date of Hearing: 24.03.2026

Date of Pronouncement: 22.05.2026

ORDER

Per Raj Kumar Chauhan, Judicial Member:

These appeals are directed against the common order dated 24.03.2025 of Ld. Commissioner of Income Tax (Appeals)-31, Delhi [hereinafter referred to as the "CIT(A)"] passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as "the Act") wherein the addition made of Rs.10,10,00,000 (A.Y. 2011-12) and Rs.12,37,03,610/- (A.Y. 2012-13) u/s 69 of the Act, vide assessment order dated 30.03.2016 were deleted.

For A.Y. 2011-12

2. Facts in brief as culled out from the authorities below are that the case of the assessee was reopened after issuing notice

u/s 153A of the Act dated 08.04.2015, consequent upon, the assessee company being covered in search u/s 132(1) of the Act in the Karan Luthra Group of cases. The notice sent u/s 153A was again issued on 06.08.2015 on the address of the directors of the assessee company which has returned unserved. There was no response from the assessee company with regard to the notice issued u/s 142(1) of the Act dated 23.12.2015 and 12.01.2016. Thereafter, summon u/s 131 of the Act were issued on 12.01.2016 to Mr. Pavan Kumar, director of the company, which remained unattended. Final notice was served through a fixation, but no response came from the assessee. Even there was no response to the show-cause notice and the penalty notice sent on 02.03.2016 and 14.03.2016. Thus, the assessment proceedings were completed u/s 144 of the Act.

3. During the course of search and seizure operation in case of Sh. Karan Luthra on 14.03.2014 at E-86, Malcha Marg, New Delhi, certain loose papers were found as an Annexure A-1 and were seized and it was noticed from the said paper that assessee has made payment to Yamuna Expressway Industrial Development Authority (YEIDA) for TS-3 land. The YEIDA has confirmed the payment by the assessee in the following manner extracted below as under:

Amount in rupees	Detail of pay order/Cheque/RTGS with bank name	Date of Clearance
10,10,00,000	No. 574713/14/15/16 Date 24.12.2010 Drawn - Corporation Bank, Sector-3, Noida	30.12.2010
4,94,02,810	No. 516123, Date- 30.03.2014 Drawn - Corporation Bank, Service Branch, New Delhi	04.04.02011
4,60,00,000	No. 515813 / 515871 Dated 06.03.2011 Drawn - Corporation Bank, Sector-3, Noida	01.04.2011
2,83,00,800	No.065359 Dated 01.07.2011 Drawn - Jammu & Kashmir Bank, Naraina, New Delhi	22.07.2011
22,47,03,610	Total	

4. From the above chart, it is noticed that assessee during the year under consideration, assessee has made payment of Rs.10,10,00,000/- to YEIDA. Since assessee did not respond during the assessment proceedings, the said payment remained unexplained and was accordingly added u/s 69 of the Act to the income of the assessee and penalty proceedings were also initiated.

5. Aggrieved by the Assessment Order, the assessee filed appeal before the Id. CIT(A) who has set aside the addition so made by making observation from para 11 onward, extracted below as under:

"11. The second issue relates to the addition of Rs. 10,10,00,000/- made by the AO u/s 69 of the Act which is based on the material found and seized during the search conducted on Karan Luthra Group of cases. The information suggests that the appellant company had made a payment of Rs. 10,10,00,000/- to Yamuna

Expressway Industrial Development Authority (YEIDA) and due to noncompliance, the AO treated the same as unexplained and added to the income of the appellant. However, during the appellate proceedings, the appellant submitted evidences that the M/s Sidh Automobiles Limited, an NBFC had made the payment on behalf of the company to YEIDA and the same was assessed by the DCIT, CC-22, New Delhi for the A.Y. 2011-12 wherein no adverse inference was drawn with regard to the payment made to YEIDA on behalf of the appellant company.

12. The AO has made the aforesaid addition u/s 69 of the Act. Let us look at the provisions of section 69 of the Act. The said section reads as under:

"Unexplained investments.

69. Where in the financial year immediately preceding the assessment year the assessee has made investments which are not recorded in the books of account, if any, maintained by him for any source of income, and the assessee offers no explanation about the nature and source of the investments or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory, the value of the investments may be deemed to be the income of the assessee of such financial year."

13. The twin conditions to be satisfied for invoking section 69 of the Act are that:-

- 1. investments are not recorded in the books of account, if any, maintained by the assessee, and*
- 2. the assessee offers no explanation about the nature and source of the investments or the explanation offered by him is not, in the opinion of the AO, satisfactory.*

14. It is seen that the amount has been duly recorded in the books of accounts maintained by the appellant and that the appellant has explained the nature the investments being a deposit with YEIDA for acquiring a piece of land (TS-03) and source of the investment has been explained to be funding from M/s Sidh Automobiles Limited, an NBFC. Therefore, I am of the considered view that the twin conditions for invoking section 69 of the Act are not satisfied in the case of the appellant. The AO did not have the benefit of the submissions of the appellant which, as discussed earlier, was not in control of the appellant. However, it is seen that the AO passed an assessment order for assessment year 2012-13 u/s 147

r.w.s. 143(3) of the Act wherein he has examined the books of account of the appellant and made an addition of u/s 40(a)(ai) of the Act amounting to 12.55 lakh only. No other adverse inference with regard to books of accounts or any other matter has been drawn by the AO. Similarly, for the assessment year 2017-18, no adverse inference was drawn by the AO in assessment order passed u/s 143 (3) of the Act.

15. Upon careful consideration of the entire gamut of facts and circumstances of the case and in view of the foregoing discussion, I am of the considered view that the addition of Rs.10,10,00,000/- made by the AO u/s 69 of the Act is not sustainable on facts as well as in law. Therefore, the said addition of Rs.10,10,00,000/-is liable to be deleted. I hold accordingly. Hence, the addition of Rs.10,10,00,000/-made by the u/s 69 of the Act is hereby deleted."

6. Aggrieved by the impugned order, the Revenue is in appeal before us and raised the following grounds of appeal:

"1. The appellant craves leave to add, alter or amend any/all of the grounds of appeals before or during the course of the hearing of appeal.

2. On the facts arid circumstance of the case, the Ld. CIT(A) erred in deleting the addition of Rs. 10,10,00,000/-, as the assessee during the course of assessment proceedings has not responded to the various notices issued while passing the assessment order and hence failed to discharge its onus for explaining the genuineness of transaction.

3. On the facts and circumstances of the case, the Ld. CIT(A) erred in deleting the addition of Rs.10,10,00,000/- by not appreciating the facts that AO in its assessment order has clearly stated that during the post search inquiries, Yamuna Express Way Industrial Development Authority(YEIDA) has confirmed the above-said payment made by assesses company to them.

4. On the facts and circumstances of the case, the Ld. CIT(A) erred in deleting the addition of Rs.10,10,00,000/- as the case of the assessee was completed ex-parte and Ld. CIT(A) has not given opportunity to the AO for examining the books of the assessee and further treatment of payment made to YEIDA by the third party (M/s Sidh Automobiles Limited) on behalf of assessee."

7. We have heard the Id. AR and the Id. DR. The Id. DR has simply relied the Assessment Order and argued that the amount was paid by the third party to YEIDA and the Id. CIT(A) did not give opportunity to the AO to explain the facts and circumstances in that regard.

8. The Id. AR on the other hand submitted that since the Assessment Order was ex-parte passed u/s 144 of the Act as no notice was ever served upon the assessee and hence the Id. CIT(A) has admitted the additional evidence submitted by the assessee in support of its claim against the alleged addition made and the Id. CIT(A) has duly called the remand report dated 21.04.2019 and 11.10.2019 from the AO which is placed at page 36 & 40 of the paper book. It is therefore argued that the Id. CIT(A) has after meticulously examining the material evidence and rightfully appreciating the facts of the case has allowed the appeal of the assessee. It is therefore argued that there is no worth in the grounds raised and the argument made on behalf of the Revenue and the appeal is liable to be dismissed.

9. We have considered the rival submissions and examined the record. We have noticed that the basis of the addition for A.Y.2011-12 of Rs.10,10,00,000/- was seizure of loose papers indicating payment to YEIDA allegedly not reflected in the

books and source remained unexplained. In that regard, before the Id. CIT(A) when additional evidence was admitted, the assessee has submitted the proof of payment of Rs.10,10,00,000/- through 4 demand drafts of Rs.2,52,50,000/- each dated 24.12.2010 as the said demand draft were issued and amount was funded by M/s Sidh Automobiles Ltd. which is an RBI registered NBFC and the said drafts were directly given to YEIDA on behalf of assessee through banking channels. The identity of NBFC, M/s Sidh Automobiles Ltd. along with creditworthiness and genuineness of the transaction remained unchallenged and even no adverse inference was drawn against M/s Sidh Automobiles Ltd. by the assessing officer for the assessment year 2011-12 regarding the said transaction. It was also submitted on behalf of assessee that AO has failed to controvert the assessee's explanation during remand report in that regard.

10. For the above reasons, we are of the considered opinion that Id. CIT(A) has passed the impugned order after meticulously examining the relevant facts and considering the necessary material brought on record lawfully by way of additional evidence by the assessee/appellant. For these reasons, we do not find any force in the grounds raised by the

Revenue in their appeal and the appeal of the revenue is accordingly dismissed.

For A.Y. 2012-13

11. The brief facts concerning this A.Y.2012-13, as noticed from the Assessment Order during the course of search and seizure operation in case of Shri Karan Luthra on 14.03.2014 at E-86, Malcha Marg, New Delhi, certain loose papers were found as an Annexure A-1 and were seized and it was noticed from the said paper that assessee has made payment to Yamuna Expressway Investment Development Authority for TS-03 land. Further during the post search inquiry, it was found that Yamuna Expressway Investment Development Authority has confirmed the payment by the assessee in the following manner, extracted below as under:

Amount in rupees	Detail of pay order/Cheque/RTGS with bank name	Date of Clearance
10,10,00,000	No. 574713/14/15/16 Date 24.12.2010 Drawn - Corporation Bank, Sector-3, Noida	30.12.2010
4,94,02,810	No. 516123, Date- 30.03.2014 Drawn - Corporation Bank, Service Branch, New Delhi	04.04.2011
4,60,00,000	No. 515813 / 515871 Dated 06.03.2011 Drawn - Corporation Bank, Sector-3, Noida	01.04.2011
2,83,00,800	No.065359 Dated 01.07.2011 Drawn - Jammu & Kashmir Bank, Naraina, New Delhi	22.07.2011
22,47,03,610	Total	

12. From the above chart, it was found that during the relevant year assessee has made payment of Rs.12,37,03,610/- to YEIDA. Since, during the course of assessment proceedings

assessee has not responded to various notices issued by the department, the source of the above payment remain unexplained and accordingly the said amount was added u/s 69 of the Act to the income of the assessee. Penalty proceedings were also initiated.

13. Aggrieved by the Assessment Order, the assessee filed appeal before the Id. CIT(A) where ground Nos. 2 & 3 related to the addition of Rs.12,37,03,610/-u/s 69 of the Act. The Id. CIT(A) has noticed that during the appellate proceeding, the appellant has submitted written submission recorded therein in para 6 of the Id. CIT(A)'s order. The decision on ground No. 2 & 3 pertaining to the addition of Rs.12,37,03,610/- has been dealt with by the Id. CIT(A) from para no. 11 onward extracted below as under:

"11. The second issue relates to the addition of Rs. 12,37,03,610/- made by the AO u/s 69 of the Act which is based on the material found and seized during the search conducted on Karan Luthra Group of cases. The information suggests that the appellant company had made a payment of Rs. 12,37,03,610/- to Yamuna Expressway Industrial Development Authority (YEIDA) and due to noncompliance, the AO treated the same as unexplained and added to the income of the appellant.

12. The facts of the case are that the payment of Rs. 4,94,02,810/- was made on 30.03.2011 which does not pertain to the A.Y. 2012-13 but to the A.Y. 2011-12 as the same was debited from appellant's bank account on 30.03.2011 and the date of clearance was 30.03.2011 not 04.04.2011 as observed by the AO. Similarly, Rs.4,60,00,000/- was paid on 06.03.2011 not on 01.04.2011 as observed by the AO. While framing the assessment order the AO overlooked the bank statements from which it was clear that the payment was debited

during the A.Y. 2011-12 not during the A.Y. 2012-13. In view of the above facts, the addition of Rs.4,94,02,810/- and Rs. 4,60,00,000/-cannot be made a part of the assessment for A.Y. 2012-13. The remaining payment of Rs. 2,83,00,800/- was never made by the appellant to YEIDA. In facts the payment of Rs. 2,83,00,800/- was made by M/s New Jazz Electronics Private Limited to YEIDA on behalf of the appellant by issuing a Demand Drafts. The appellant company was required to make payment to YEIDA for TS-03 land and the appellant company had taken funds from M/s New Jazz Electronics Private Limited and Demand draft was issued by M/s New Jazz Electronics Private Limited to the YEIDA on behalf of appellant. In short, the appellant company had borrowed funds from M/s New Jazz Electronics Private Limited.

13. Even if, for the sake of argument, it is assumed that the entire the addition of Rs. 12,37,03,610/- pertains to AY 2012-13, the pertinent question here is whether the said addition can be made u/s 69 of the Act as has been done by the AO. Let us look at the provisions of section 69 of the Act. The said section reads as under:

"Unexplained investments.

69. Where in the financial year immediately preceding the assessment year the assessee has made investments which are not recorded in the books of account, if any, maintained by him for any source of income, and the assessee offers no explanation about the nature and source of the investments or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory, the value of the investments may be deemed to be the income of the assessee of such financial year."

14. The twin conditions to be satisfied for invoking section 69 of the Act are that:-

- 1. investments are not recorded in the books of account, if any, maintained by the assessee, and*
- 2. the assessee offers no explanation about the nature and source of the investments or the explanation offered by him is not, in the opinion of the AO, satisfactory.*

15. It is seen that the amount has been duly recorded in the books of accounts maintained by the appellant and that the appellant has explained the nature the investments being a deposit with YEIDA for acquiring a

piece of land (TS-03) and source of the investment has been explained to be funding from M/s Sidh Automobiles Limited, an NBFC, M/s New Jazz Electronics Private Limited and the own funds of the appellant itself. Both these entities have credit worthiness who advanced loans to the appellant. The identity of both the entities and genuineness of transaction is not in doubt. Therefore, I am of the considered view that the twin conditions for invoking section 69 of the Act are not satisfied in the case of the appellant. The AO did not have the benefit of the submissions of the appellant which, as discussed earlier, was not in the control of the appellant. However, it is seen that the AO passed an assessment order for assessment year 2012-13 u/s 147 r.w.s. 143(3) of the Act wherein he has examined the books of account of the appellant and made an addition of u/s 40(a)(ai) of the Act amounting to 12.55 lakh only. No other adverse inference with regard to books of accounts or any other matter has been drawn by the AO. Similarly, for the assessment year 2017-18, no adverse inference was drawn by the AO in assessment order passed u/s 143 (3) of the Act.

16. Upon careful consideration of the entire gamut of facts and circumstances of the case and in view of the foregoing discussion, I am of the considered view that the addition of Rs. 12,37,03,610/- made by the AO u/s 69 of the Act is not sustainable on facts as well as in law. Therefore, the said addition of Rs.12,37,03,610/- is liable to be deleted. I hold accordingly. Hence, the addition of Rs.12,37,03,610/- made by the u/s 69 of the Act is hereby deleted."

14. We have heard the Id. AR and the Id. DR and examined the record. The Id. DR at the very outset submitted that out of total amount of Rs.12,37,03,610/-, a sum of Rs.9,54,02,810/- pertains to the Financial Year 2010-11 (A.Y.2011-12) which is clear from the debit dates in March 2011 and is not pertaining to A.Y. 2012-13. It is stated that the amount of Rs.4,94,02,810/- was paid on 30.03.2011 and not on 04.04.2011. Hence, it does not relate to the Assessment Year 2012-13. Page 88 of the paper book is containing the bank

statement. It is further argued that only a sum of Rs.2,83,800/- was paid on 01.07.2011 and the source of the said fund was third party i.e. Ms/ New Jazz Electronics Pvt. Ltd. who has paid the same to the YEIDA through demand drafts on behalf of assessee which is a genuine borrowings having been done through banking channels. It is further argued that the identity of the third party creditworthiness and genuineness are duly established before the Id. CIT(A) and there is no adverse findings in the assessments in that regard. The Id. AR has referred page 67 of the paper book in that regard.

15. The Id. DR on behalf of Revenue simply stated that AO did not get the opportunity to examine the source of the source. However, the Id. CIT(A) has permitted the filing of the necessary documents by way of additional evidence which has been lawfully done as per law and nothing is stated on behalf of the Revenue by the Id. DR in that regard.

16. We have considered the rival submissions and examined the record and noticed that the Id. CIT(A) has very meticulously dealt with the issue involved and the finding returned by the Id. CIT(A) in that regard as extracted by us in the preceding para is apt and accurate and we find no reason/justification to interfere with the same. For these reasons, the Id. CIT(A) has rightly deleted the addition made in the Assessment Order and for that

reasons, we do not find any force in the ground raised by the Revenue and the appeal of the Revenue is accordingly liable to be dismissed.

17. For the above reasons, both the appeals of the revenue are dismissed.

Order Pronounced in the Open Court on 22/05/2026.

Sd/-

(Brajesh Kumar Singh)
Accountant Member

Dated: 22/05/2026

Subodh Kumar, Sr. PS

Copy forwarded to:

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

Sd/-

(Raj Kumar Chauhan)
Judicial Member

ASSISTANT REGISTRAR