



\$~1 & 2

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

%

Date of Decision : 24.11.2025

+ **ITA 663/2025**

+ **ITA 664/2025**

KROSS DIAMONDS PVT. LTD

.....Appellant

Through: Mr. M. P. Rastogi, Mr. Kaushik, Mr. Shivam Malik and Mr. Ram Naresh, Advocates.

versus

INCOME TAX OFFICER, WARD 14(3)

.....Respondent

Through: Mr. Abhishek Maratha, SSC, Mr. Apoorv Agarwal, JSC and Ms. Nupur Sharma, Mr. Gaurav Singh, Mr. Bhanukaran Singh, Ms. Muskaan Goel, Mr. Himanshu Gaur and Mr. Nischary Purohit, Advocates.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE VINOD KUMAR

V. KAMESWAR RAO , J. (ORAL)

CM APPL. 72254/2025(condn of delay in filing) in ITA 663/2025

CM APPL. 72267/2025(condn of delay in filing) in ITA 664/2025

1. For the reasons stated in the applications, the delay of 152 days in filing the appeals is condoned.
2. The applications stand disposed of.

ITA 663/2025

ITA 664/2025



3. These two appeals filed by the Assessee under Section 260A of the Income Tax Act, 1961 (the Act) impugn the common order dated 18.12.2024 passed by the Income Tax Appellate Tribunal (ITAT) while deciding four cross appeals filed by the parties being ITA No.3200/Del/2018, ITA No.2886/Del/2018, ITA No.3201/Del/2018 and ITA No.2966/Del/2018 relating to the Assessment Year (AY) 2013-14 and 2014-15 respectively.

4. The challenge in these two appeals is relating to ITA No.3200/Del/2018 and ITA No.3201/Del/2018 in respect of AY 2013-14 and 2014-15 respectively, which were filed by the Revenue, challenging the order dated 10.01.2017 passed by the Commissioner of Income Tax (Appeals) -18, New Delhi ['CIT(A)' in short] in Appeal Nos.18/10051/2017-18 and 18/10052/2017-18.

5. The Revenue has challenged the order of the CIT(A) deleting the additions made by the Assessing Officer (AO) of unverifiable purchases under Section 69C of the Act and restricted the addition by estimating commission /profit at 0.25% on the alleged cash sales. Similarly, ITA No.3201/Del/2018 has been filed by the appellant before the ITAT on identical grounds and the same is relating to the AY 2014-15. The challenge primarily relates to the excess cash deposit of Rs.58,09,830/- and Rs.1,97,45,038/-. The findings of the ITAT are in paragraphs 24-26, are as under:-

“24. We have heard rival arguments and gone through the records. When a query was put to Ld. Counsel for the assessee, that what is source of this excess cash deposit of



Rs.58,09,830/-, the Ld. Counsel explained that the assessee is having opening cash balance and total of that regular cash received during the year was deposited in the bank account and that is why there is excess cash deposit of Rs.58,09,830/- qua the sales of Rs.97,13,70,670/-, on query from the bench, that the facts are not emerging from the order of the AO or that of the CIT(A). The Ld. Counsel for the assessee could not explain how the issue was addressed by the assessee before authorities below. On this Ld. Counsel for the assessee has stated that the details are referred in assessee's paper book in pages 36 to 37 but when he was asked to correlate these entries of cash deposit in bank with cash in hand available or cash generated out of cash sales he could not properly explained. The Ld. CIT(DR) on the other hand requested the Bench to refer the matter back to the file of the AO for verification on this issue whether the cash deposit of Rs.58,09,830/- is arising out of available cash in hand or out of cash sale made by the assessee.

25. After hearing both the sides and going through the facts of the case we are of the view that the issue of cash deposit in the bank account of Rs.58,99,830/- i.e. over and above cash sale of Rs.97,13,70,670/- needs proper verification and the assessee has to explain the source of cash. In view of the given facts of the case, we are of the view that the assessee is unable to explain this differential cash by any plausible explanation. Accordingly, we allow this issue of revenue.

26. Coming to revenue's appeal in ITA No.3201/Del/2018 for A.Y. 2014-15. Similar issue is arising in this appeal also regarding unexplained cash deposit in bank account of Rs.1,97,45,038/-. This exactly identical issue in A.Y. 2013-14 in ITA No.3200/Del/2018 and in this year also the facts are not clear. Hence, taking consistent view and exactly similar finding we are allowing this issue of the Revenue's appeal."

6. The conclusion of the Tribunal in the appeals regarding both the



issues is that the appellant herein has not been able to explain the excess cash with any plausible evidence. A reference in this regard is made to the pages 36-37 of the Assessee's paperbook and upon a specific query to the appellant to explain or co-relate the entries of cash deposited in bank with cash available in hand or cash generated from the cash sales, but he could not able to properly explain the same.

7. When the appeals were listed on 18.11.2025, the learned counsel for the appellant sought time to produce the complete paperbook which was filed before the Tribunal. The same has been placed before us.

8. The learned counsel for the appellant has drawn our attention to pages 36-37 of the paperbook. We have heard the learned counsel for the parties for sometime. Suffice to state that the counsel for the appellant is not able to clarify as to how the aforesaid amounts were brought forward from the earlier financial year (as is the case of the appellant), as no such amounts have been depicted at pages 36-37 on which reliance is now sought to be placed by the learned counsel for the appellant. In fact, on a specific query to the appellant as to whether any evidence has been produced to show that these amounts were carried forward from the previous financial year, the answer for the same is in the negative.

9. We are of the view that the questions that have been proposed by the appellant in both the appeals are pure questions of fact, and surely, any issue relatable to a question of fact, shall not be maintainable under Section 260A of the Act, under which these appeals have been filed. Hence, it must be held that no substantial question of law arises for consideration in these



2025:DHC:10437-DB



appeals.

10. The appeals, are accordingly, dismissed.

V. KAMESWAR RAO, J

VINOD KUMAR, J

NOVEMBER 24, 2025

sr/M