

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

BEFORE MS MADHUMITA ROY, JUDICIAL MEMBER

AND

SHRI KRIWANT SAHAY, ACCOUNTANT MEMBER

**ITA No.9107/Del/2025
[Assessment Year: 2021-22]**

DCIT Delhi	Vs.	ECR Buildtech Pvt. Ltd. K. NO. 44/45-27, Ground Floor, Left Portion, Kapashera, New Delhi-110037 PAN No.AADCE1934F
Appellant		Respondent

**Cross objection No.56/Del/2026
(In ITA No.9107/Del/2025)
[Assessment Year: 2021-22]**

ECR Buildtech Pvt. Ltd. K. NO. 44/45-27, Ground Floor, Left Portion, Kapashera, New Delhi- 110037 PAN No.AADCE1934F	Vs.	DCIT Delhi
Appellant		Respondent

Appellant by	Sh. Rajesh Mahajan, CIT DR
Respondent by	Sh. Lalit Gupta, CA Ms. Neha Gupta, CA

Date of Hearing	24.06.2026
Date of Pronouncement	30.06.2026

ORDER

PER KRINWANT SAHAY, A.M.

This appeal filed by the Revenue is directed against the order dated 02.09.2025 passed by the Ld. CIT(A)-29, New Delhi for the A.Y. 2021-22.

2. The revenue has raised following grounds of appeal :-

1. Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) was justified in deleting the addition of Rs.1,43,95,419/- made on account of unexplained salary paid in cash, by disregarding the material gathered during search proceedings, seized documents, and statements recorded under section 132(4) of the Income-tax Act, 1961, which indicated incurrance of substantial salary expenditure in cash during the relevant assessment year

2. Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) was justified in holding that the Assessing Officer misinterpreted the statements recorded under section 132(4), despite such statements having evidentiary value and no specific OR substantiated retraction having been furnished by the assessee to controvert the admissions regarding cash expenditure

3. Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) was justified in disregarding the findings of the Investigation Wing and the seized loose papers by holding that the Assessing Officer acted mechanically, without appreciating that the assessment order reflects examination of seized material and explanations offered by the assessee before making the addition

4. Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) was justified in accepting the submissions filed by the assessee in a general manner without discussing the 4 factual position, seized documents, OR specific evidences relied upon, and in deleting the addition without recording reasoned

and speaking findings, thereby incorrectly shifting the burden of proof from the assessee to the Assessing Officer

5. Whether there is any delay in filing of appeal (if yes, 11 please attach application seeking condonation of delay).

3. During proceedings before us the Ld. DR argued that the Ld. CIT(A) has deleted the addition of Rs.1,43,95,419/- made by the AO in the assessment order on account of unexplained salary paid in cash. The AO had made this addition on the basis of material and loose papers gathered during search proceedings. A statement of Director of the company u/s.132(4) was recorded and the Director in his statement had accepted payment of cash in some cases.

4. Brief facts of the case are that the assessee company is engaged in the business of construction and Infrastructure activities of commercial and industrial buildings. A search and seizure operation u/s.132 of the Act was conducted on the companies and individual initiated with the ECR group on 10.01.2023.

5. During the search loose papers and some documents were seized related to the assessee which showed that the assessee was making cash payment for salary and other expenses on the basis of loose papers and the documents. The AO made an addition of Rs.1,43,95,419/- on account of

unexplained salary paid in cash. Against this addition the assessee filed an appeal before the Ld. CIT(A) who deleted this addition on the basis of paper and submissions filed by the assessee without any further enquiry or getting remand report on papers filed by the assessee. Against the deletion of such addition the revenue has preferred this appeal before the Tribunal.

6. During proceedings before us the Ld. Counsel for the assessee reiterated the same arguments and produced same set of papers which he filed before the Ld. CIT(A).

7. From the order of the Ld. CIT(A) it is evident that neither any further enquiry or verification has been made by the Ld. CIT(A) regarding allegation of cash payment for unexplained salaries nor the Ld. CIT(A) has sought any remand report from the AO on papers filed by the assessee during appellate proceedings.

8. We have considered the findings given by the AO in the assessment order and by the Ld. CIT(A) in the appellate order. We find that the Ld. CIT(A) has deleted the addition made by the AO on unexplained salary payment in cash by the assessee company. We also find that the addition made by the AO was not only on the basis of papers seized but also on the basis of the statement recorded during the

search. One of the directors of the company had confessed the payment of salary in cash. The Ld. CIT(A) has ignored these relevant facts. Therefore, his action of deleting the addition cannot be sustained. Accordingly, revenue's appeal on this issue is allowed.

Cross Objection No. 56/Del/2026

9. The assessee has filed the cross objection. In its cross objection the assessee has raised following grounds of appeal :-

“1. That the learned CIT(A) has rightly deleted the addition of Rs.1,43,95,419 made by the Assessing Officer under the head Salary Expenses on account of alleged unaccounted cash payments, as the 1 addition was founded merely on Investigation Wing findings, selective reliance on statements recorded under section 132(4), and certain loose Excel sheets OR WhatsApp chats, without establishing any actual cash outflow OR expenditure outside the books of account,

2. That the Assessing Officer failed to bring on record any corroborative evidence such as cash withdrawals, parallel books, undisclosed bank 2 accounts, confirmation from employees, OR any identifiable cash trail to substantiate the allegation that salary of Rs. 1,43,95,419 was paid in cash outside the regular books.

3. That the learned CIT(A) has correctly held that unauthenticated electronic material and rough internal calculation OR projections (such as sheets titled Salary B) cannot override audited books of account, salary registers, bank statements, and statutory TDS compliance records, all of which were duly produced and remained uncontroverted,

4. That the allegation of the Department that the learned CIT(A) ignored seized material OR shifted the burden of proof is misconceived, as the primary burden under Section 69C lies upon the Revenue to prove actual incurrence of unexplained expenditure, which burden was not discharged by the Assessing Officer.

5. *That the deletion of the addition of Rs. 1,43,95,419 is based on proper appreciation of facts, evidence, and settled judicial principles that suspicion OR presumption cannot substitute proof, and therefore the order of the learned CIT(A) calls for no interference.*

6. *The Cross Objector reserves the right to add, amend OR modify any ground at the time of hearing.”*

10. Although the assessee has taken this grounds in his cross objection but the only issue involved in the cross objection is in support of deletion by the Ld. CIT(A) of the addition made by the AO of Rs.1,43,95,419/- under the head salary expenses on account of alleged cash payments we find that the addition was made by the AO on the basis of investigation wing findings and on the basis of loose papers and documents found during the search alongwith the statements recorded u/s.132(4). Since we have already allowed the appeal of the revenue on the same issue in ITA No.9107/Del/2025 for A.Y. 2021-22, therefore, the cross objection filed by the assessee on this issue is dismissed.

11. In the result, the appeal of the revenue is allowed and the cross objection filed by the assessee is dismissed.

Order pronounced in the open court on 30.06.2026.

Sd/-

[MADHUMITA ROY]
JUDICIAL MEMBER

Sd/-

[KRINWANT SAHAY]
ACCOUNTANT MEMBER

Dated: 30.06.2026

MADHUMITA ROY, J.M.

Copy forwarded to:

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

Asst. Registrar,