

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

**BEFORE SH. SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SH. NAVEEN CHANDRA, ACCOUNTANT MEMBER**

**ITA No. 1188/Del/2026
(Assessment Year : 2022-23)**

DCIT E2, ARA Centre, Jhandewalan Extension, New Delhi -110055	Vs.	Dolly Kumar House No.8139, Sector - B, Pocket - 11, Vasant Kunj New Delhi - 110 070
		PAN : ALEPK 9868 M
(APPELLANT)		(RESPONDENT)

**CO No. 139/Del/2026
(Arising out of ITA No.1188/Del/2026)
(Assessment Year : 2022-23)**

Dolly Kumar Villa No.50, The Palm Springs Sector - 54, Golf Course Road Gurgaon, Haryana - 122 002	Vs.	DCIT E2, ARA Centre, Jhandewalan Extension, New Delhi -110055
PAN : ALEPK 9868 M		
(APPELLANT)		(RESPONDENT)

Assessee by	Shri Salil Kapoor, Ms. Ananya Kapoor, Shri Sumit Lal Chandani, Shri Shivam Yadav & Ms. Sakshi Rustogi	Advocates
Revenue by	Ms. Kranti, CIT-D.R.	

Date of hearing:	12.05.2026
Date of Pronouncement:	15.05.2026

ORDER

PER NAVEEN CHANDRA, ACCOUNTANT MEMBER :

The above captioned appeal by the Revenue and Cross Objection by the assessee is preferred against order of the Id. Commissioner of Income Tax (Appeals) - 24, New Delhi dated 26.11.2025 under section 250 of the Income Tax Act, 1961 (hereinafter referred as 'the Act') arising from the assessment order dated 23.04.2025, passed by the Assessing Officer, DCIT, Central Circle-5, New Delhi under Section 147 of the Act concerning Assessment Year 2022-23.

2. Since the underlying facts are common in the cross objections of the assessee and in appeal of the Revenue and pertain to same assessee, they were heard together and are disposed of by this common order for the sake of convenience and brevity.

3. Brief facts of the case are that the assessee originally filed her return of income on 07.11.2022 declaring total income of Rs. 11,99,75,650/-. A search and seizure operation under Section 132 of the Act was conducted at the premises of the assessee on 20.09.2023. Consequent to above, Notice dated 14.08.2024 u/s 148 of the Act was issued to the assessee, in response to which, the assessee filed her return on 30.11.2024 declaring the same total income of Rs. 11,99,75,650/-. Finally, the learned AO made an addition of Rs. 1,38,99,420/- u/s 69A of the Act, being receipt of cash from vendors

against excess payments, vide assessment order dated 23.04.2025 passed u/s 147 of the Act and also initiated penalty proceedings u/s 271AAC of the Act.

4. Aggrieved, the assessee preferred an appeal before the CIT(A) who considering the facts and circumstances, allowed the appeal of the assessee. Now the further aggrieved Revenue is in appeal before us with the following grounds:

- “1. That the Ld.CIT(A), on the facts and in the circumstances of the case and in law, erred in deleting the addition of Rs.1,38,99,420 made by the Assessing Officer u/s 69A of the Act, despite recording a categorical finding that the flagship company "had indulged in generation of unaccounted cash through over-invoicing".
2. That the Ld. CIT(A) erred in law and on facts by reaching an internally contradictory conclusion having admitted in para 5.2.3 that digital records "explicitly state that such cash generated was being given to Ms. Dolly Kumar/mam," the Ld. CIT(A) failed to appreciate that such receipt constitutes "ownership" and "possession" for the purpose of Section 69A.
3. That the Ld. CIT(A) erred in holding that the receipt of cash by the appellant was merely in her capacity as a "key decision maker" and not as an "owner" for "personal benefit," thereby ignoring the evidentiary value of statements recorded u/s 132(4). Specifically, the statement of Sh. Amit Maheshwari, VP (Finance), confirmed that all cash generated was "directly handed over to Ms. Dolly Kumar".
4. That the Ld. CIT(A) erred in requiring the physical discovery of unaccounted cash, jewellery, or investments at the time of the search as a pre-condition for an addition u/s 69A, while completely disregarding the incriminating digital evidence and "final vendor cash accounts" which recorded the actual movement of money to the appellant during the relevant financial year.
5. That the Ld. CIT(A) erred in failing to appreciate that the excel sheets found on the group laptops contained specific narrations such as "Given to mam" and "Cash was handed over to Mam," which directly link the unaccounted money to the appellant.
6. That the Ld. CIT(A) erred in law by giving weight to the belated retractions of the key persons, which were filed after a long time in March 2025 which is nearly 18 months after the search and were correctly characterized by the AO as a "well-thought-out device" to manipulate evidence and delay proceedings.

7. *That the Ld. CIT(A) erred in ignoring the corroborative statements of various vendors, such as Sh. Sanjay Gambhir (S.S. Engineers) and Sh. Sandeep Singh (S.K. Engineers), who admitted on oath to providing cash back to the company in lieu of over-invoiced bills.*
8. *The appellant craves leave to add, alter, amend, or modify any of the grounds of appeal at or before the time of hearing.”*

5. At the outset, the ld counsel of the assessee submitted that, in the instant case, addition of Rs.1.38 crores was made by the Assessing Officer under section 69A of the Act. The ld AR argued that the assessee is not the owner of the cash generated and hence the invocation of section 69A is illegal.

6. Per contra, the ld DR relied on the orders of AO.

7. We have heard the rival submissions and have perused the materials on record. The facts of the case shows that in the course of search, it was found that the flagship company M/s Cosmic Nutracos Solutions Private limited was receiving cash from purchase parties/vendor parties against excess payments (over-invoicing). The case of the AO is that the Company had indulged in generation of unaccounted cash through over-invoicing and since the cash generated was given to Ms. Dolly Kumar, therefore the assessee becomes the owner of the cash generated and therefore, the addition was made under section 69A. We find that the CIT(A) held that the assessee is a key decision maker and not the owner for personal benefit of the said cash and therefore, the addition could not be made under section 69A

of the Act in her hand. To properly appreciate the issues, we reproduce the order of the CIT(A) for ready reference:

DECISION:

5.2.1 In this case, AO has made an addition of Rs.1,38,99,420/- u/s 69A of the Income tax Act, 1961 on the ground of unaccounted income being generated by the company, M/s Cosmic Nutracos Solutions Private Limited, which was allegedly being received by Ms. Dolly Kumar as the key person and Director of the Company.

5.2.2 In this case, an examination of material details pertaining to the case indeed proves that the flagship company, M/s Cosmic Nutracos Solutions Private Limited had indulged in generation of unaccounted cash through over-invoicing. In this context, the undersigned after a thorough examination of the case M/s Cosmic Nutracos Solutions Private Limited for AY-2022-23, have upheld the addition of Rs. 1,38,99,420/- on account of over-invoicing vide order dated 26.11.2025 based on categorical factual findings emanating from seized records and Statements of key persons on oath u/s 132(4) of the Income tax Act, 1961.

5.2.3 I also notice that there is in existence certain digital record/excel sheets which explicitly state that such "cash" generated through over-invoicing was being given to Ms. Dolly Kumar/mam, she being the key person handling the company, M/s Cosmic Nutracos Solutions Private Limited.

5.2.4 However, at the same time, I am seized of following vital factual findings which distinguish the receipt of "cash" by her in the capacity and role as director of Cosmic Nutracos Private Limited from being "owner" of such unaccounted cash in her personal capacity for personal benefit: (i) (ii) I find that the seized records, digital data, and Statements on oath do not anywhere indict Ms. Dolly Kumar as recipient of the unaccounted cash as "Shareholder/promoter" of the company and there exists nothing on record which could imply that unaccounted income generated through over-invoicing were siphoned off to her in her personal capacity for personal benefit. The reference to her in excel sheets depict her role as part of company's policy of accounting for such undisclosed income through Ms. Dolly Kumar, in her express role as key decision maker in the company. I am also cognizant of the fact that search upon the appellant u/s 132 of the IT Act, 1961 has not yielded any proof of possession of any unaccounted cash, jewelry, or investment in the hands of appellant. There is no proof of Ms

*Dolly Kumar holding any unaccounted wealth in her own personal capacity.
(iii) I find that no Statement by any of the key persons, suppliers, vendors had suggested or indicted that unaccounted income generated by the company were being transferred to appellant.*

5.2.5 Hence, in the absence of any cogent evidence or Statement indicting Ms. Dolly Kumar, the generation of unaccounted income by the company, Cosmic Nutracos Solutions Private Limited by Over-invoicing, does not automatically lead to the conclusion that such cash were being transferred and used by appellant in her personal capacity for her own personal enrichment. The digital data under reference also relate to M/s Cosmic Nutracos Solutions Private Limited and reflect as to generation of cash in the process of over-invoicing. There is no documentary or other evidence that such unaccounted income of company was transferred or used by appellant for her personal enrichment. Under the given factual matrix, and looking into the jurisprudence on the subject, I am of the view that the addition in the case of appellant u/s 69 A of the IT Act, 1961 is legally unsustainable. Grounds No 5 to 9 and 12 stand ALLOWED.

8. From the perusal of the order of the CIT(A), we find the flagship company, M/s Cosmic Nutracos Solutions Private Limited indeed had indulged in generation of unaccounted cash through over-invoicing and addition of Rs. 1,38,99,420/- in AY 2022-23, on account of over-invoicing, was made by the AO in the company's hand which was upheld by the CIT(A). We concur with the CIT(A) that the assessee is only a key person and unaccounted cash was handed over to her in the capacity of key person of the Company. The facts of the instant case do not comply with the requirement of assessee being an "owner" of any money, for the AO to invoke the provisions of section 69A of the Act. The owner of cash generated by over-invoicing is the Company M/s Cosmic Nutracos Solutions Private Limited and the assessee does

not hold the said money for her personal benefit. In such factual matrix, we are of the considered view that there is no reason to interfere with the order of CIT(A). The grounds are dismissed.

CO 139/D/2026

9. The Revenue appeal has been dismissed as above. The assessee CO is accordingly rendered infructuous and is accordingly dismissed as infructuous.

10. In the result, the appeal of the Revenue in ITA No. 1188/Del/2026 is dismissed and the appeal of the assessee in CO No.139/Del/2026 is also dismissed.

Order pronounced in the open court on .05.2026

Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

Sd/-
(NAVEEN CHANDRA)
ACCOUNTANT MEMBER

Date:- 15.05.2026

*Priti Yadav, Sr. Ps**

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI