

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

**BEFORE SH. A.D. JAIN, VICE PRESIDENT  
AND  
SH. N. K. BILLAIYA, ACCOUNTANT MEMBER  
(THROUGH VIDEO CONFERENCING)**

ITA No.3384/Del/2018  
Assessment Year: 2009-10

<b>Arison Associates Pvt. Ltd. L-30, Basement, Near DJB Colony, Tubewell No.3, Kailash Colony, New Delhi PAN No.AAFCA5898L</b>	<b>Vs</b>	<b>ITO Ward- 3 (2) New Delhi</b>
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

Appellant by	Sh. Rahul Khare, Advocate
Respondent by	Sh. Istiyaque Ahmed, CIT DR

Date of hearing:	15/03/2022
Date of Pronouncement:	15/03/2022

**ORDER**

**PER N. K. BILLAIYA, AM:**

This appeal filed by the assessee is preferred against the order of the CIT(A), New Delhi dated 10.03.2018 pertaining to A.Y.2009-10.

2. The grievance of the assessee read as under :-

1. The learned CIT(A) erred in fact and in law in confirming the re-opening u/s 148 which is not only illegal and bad in law but also against the facts and circumstances of the case.
- 1.i That notice issued u/s 147 was not only served beyond the stipulated time but also on the wrong address.
- 1.ii That the service of notice u/s 147 to ex Auditor thru e mail is not a valid service.
- 1.iii. That the re-Opening done by ITO ward 3(2) New Delhi was done without having Jurisdiction in this case.
- 1.iv. That the re-opening is bad in law because there is no application of mind by AO while recording the reasons and by CIT while granting the approval.
2. The learned CIT(A) erred in fact and in law in confirming the addition of Rs 21,97,60,000 on account of bogus purchases as protective which is not only bad in Law but also against the facts and circumstances of the case.
3. The learned CIT(A) erred in fact and in law in confirming the addition of Rs 10,98,000 which is not only bad in Law but also against the facts and circumstances of the case.

3. At the very outset before us the Counsel for the assessee made a statement that the protective additions made in the hands of the assessee have been confirmed as substantive additions in the hands of persons mentioned in the assessment order.

4. Since the protective additions has been added at substantive basis in the hands of the other persons as per the statement at bar of the counsel, we do not find any reason to dwell into the merits of the addition in the appeal under consideration.

5. We accordingly direct the AO to delete the additions. However, the revenue is given liberty to approach this Tribunal as per the provisions of the law if substantive additions are deleted from the hands of the other persons by appellate authorities.

6. In the result, the appeal of the assessee is accordingly allowed.

7. The order is pronounced in the open court on 15.03.2022 in the presence of both the parties.

Sd/-  
**(A.D. JAIN)**  
**VICE PRESIDENT**

\*NEHA\*

Date:- 15.03.2022

Copy forwarded to:

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

Sd/-  
**(N. K. BILLAIYA)**  
**ACCOUNTANT MEMBER**

ASSISTANT REGISTRAR  
ITAT NEW DELHI

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for Pronouncement	
Date on which the fair order comes back to the Sr. PS/ PS	
Date on which the final order is uploaded on the website of ITAT	15.03.2022
Date on which the file goes to the Bench Clerk	
Date on which file goes to the Head Clerk.	
The date on which file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	