

**THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'E', NEW DELHI**

**Before Dr. B. R. R. Kumar, Accountant Member  
Sh. Yogesh Kumar US, Judicial Member**

**ITA No. 1008/Del/2021 : Asstt. Year: 2002-03**

Income Tax Officer, Ward-18(3), New Delhi-110002 (APPELLANT)	Vs.	Norm Consultants Pvt. Ltd., 1-C/1/2, Flat No. 10, Model Town, New Delhi-110009 (RESPONDENT)
<b>PAN No. AACCR7113A</b>		

**Assessee by : None**

**Revenue by : Sh. Arvind Kr. Bansal, Sr. DR**

**Date of Hearing: 06.06.2023**

**Date of Pronouncement: 28.06.2023**

**ORDER**

**Per Dr. B. R. R. Kumar, Accountant Member:**

The present appeal has been filed by the Revenue against the order of Id. CIT(A)-37, New Delhi dated 31.08.2020.

2. Following grounds have been raised by the Revenue:

*"Whether on the facts and circumstances of the case, the Id. CIT(A) erred in allowing the appeal of the assessee thereby deleting the addition of Rs.4,00,00,000/- made by the AO u/s 68 of the Income Tax Act, 1961 on account of unexplained share application money and share premium.*

*2. Whether on the facts and circumstances of the case, the Id. CIT(A) erred in holding in para 6.1 c) and para 7.2 b) of its order that..."In response the AR of the appellant submitted that return filed on 31.10.2002 be treated as return filed in response to notice u/s 148...". Since vide letter dated 20.04.2007, the assessee did not state that the return filed u/s*

*139 be treated as return u/s 148 and merely stated that ".....return of income for the assessment year 2002-03 was filed in time...." Hence, issue/service of notice u/s 143(2) was not required as there was no return in response to notice u/s 148."*

3. The provisions of Section 143(2) reads as under:

*"Section 143....."*

*(2) Where a return has been furnished under section 139, or in response to a notice under sub-section (1) of section 142, the Assessing Officer or the prescribed income-tax authority, as the case may be, if, considers it necessary or expedient to ensure that the assessee has not understated the income or has not computed excessive loss or has not under-paid the tax in any manner, shall serve on the assessee a notice requiring him, on a date to be specified therein, either to attend the office of the Assessing Officer or to produce, or cause to be produced before the Assessing Officer any evidence on which the assessee may rely in support of the return:*

*Provided that no notice under this sub-section shall be served on the assessee after the expiry of [three] months from the end of the financial year in which the return is furnished."*

4. On perusal of the record, we find that the assessee has not filed return in response to the notice issued u/s 148 of the Income Tax Act, 1961 and hence the notice u/s 143(2) could not have been issued. The adjudication of the Id. CIT(A) on this issue is against the facts on record and hence the appeal of the revenue is hereby allowed.

5. In the result, the appeal of the Revenue is allowed.

Order Pronounced in the Open Court on 28/06/2023.

Sd/-

**(Yogesh Kumar US)**  
**Judicial Member**

Sd/-

**(Dr. B. R. R. Kumar)**  
**Accountant Member**

**Dated: 28/06/2023**

\*Subodh Kumar, Sr. PS\*

Copy forwarded to:

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

**ASSISTANT REGISTRAR**