

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'A': NEW DELHI  
BEFORE  
SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER  
AND  
SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER  
ITA No. 2763/Del/2022, (A.Y.2016-17)**

Amarjeet Kaur Bahri N-8, Rajouri Garden, New Delhi <b>PAN No: AAAPB0902A</b> <b>(Appellant)</b>	Vs.	DCIT Central Circle-7 Jhandewalan Extension, New Delhi <b>(Respondent)</b>
---	-----	--

Appellant by	Sh. Subash Singhal, CA
Respondent by	Sh. Javed Akhtar, CIT(DR)

Date of Hearing	16/10/2024
Date of Pronouncement	12/11/2024

**ORDER**

**PER YOGESH KUMAR U.S., JM:**

This appeal is filed by the Assessee against the order of Commissioner of Income Tax, ["Ld. CIT(A)" for short], New Delhi dated 30/09/2022 for the Assessment Year 2016-17.

2. The Assessee has raised the following additional grounds of Appeal: -

*"9. As per satisfaction note dt 05/01/2021 written by AO before issuing notice/s 153C, income escaping assessment works out to Rs. 27,76,449 which is far below Rs 50 lakhs limit as provided in fourth proviso to sec 153A which restricts the power of AO to issue notices under that section and to initiate proceedings u/s 153A/153C. The initiation itself is incorrect and the order and proceedings be kindly held invalid void ab initio."*

*In objections filed before the DCIT (paper book page 29) contain this objection before the AO which has not been disposed off by the AO (grounds of appeal before ITAT No.5). So, the additional ground as above is already on file before AO/CIT (A)/ITAT but has been now separately presented.*

*Rule 11 of the Tribunal Rules empowers your honour to allow the appellant to raise at the hearing of the appeals an additional ground even without a formal amendment of the memorandum of appeal. - 116 ITR 554 (Cal). The Appellate Tribunal has therefore, the discretion to allow new contentions to be raised before it - 293 ITR 464 (MP), 292 ITR 493 (P & H) etc.*

*As held in National Thermal Power Co Ltd vs CIT 229 ITR 383 (SC), DIT (E) (Addl) vs Flt. Lt. Ranjan Dhall Charitable Trust (2017) 58 ITR (Trib) (SN) 47 (Delhi), Orissa Cement Ltd vs CIT (2001) 250 ITR 856 (Delhi) etc that where the issue raised as additional ground is one of law going to the route of the matter without the necessity of verification of facts or bringing on record any fresh material or additional evidence, it case be entertained. In the present case, the additional ground now requested is purely a question of law of not following the monetary limit given fourth proviso to sec 153A, it will annul the entire assessment under appeal.*

*Law permits ITAT to consider and adjudicate the additional grounds of appeal (not noted in form 36) but arising out of facts available before lower authorities. On page 6 last para in CIT (A) order, the above issue was raised before him also but not decided by him. So, it is prayed that the above additional ground of appeal be kindly permitted to be raised and be kindly adjudicated on merits.*

3. Brief facts of the case are that, a search and seizure operation has been conducted u/s 132 of the Income Tax Act, 1961 ('Act' for short) on 05/01/2017 in the case of Jindal Bullion Ltd. (JBL for short), wherein a dongle having digital data containing accounting for Financial Year 2014-15, 2015-16 and 2016-17 has been sized, which shows that the JBL has been systematically engaged in cash transaction with number of entities mostly with bullion traders and jewellers. There were various ledgers in the said electronic data and one of them was mentioned as 'Amarjeet Rajouri 408' and various check and cash transactions were noted thereon. The A.O. of the searched person recorded the statement on 04/02/2021 that the assessee has made some cash/bank transaction in the ledger named as 'Amarjeet Rajouri 408' is belongs to the Assessee. Accordingly the Assessing officer recorded his satisfaction on 05/01/2021. An Assessment has been framed on 30/12/2021 under Section 153C/143(3) of the Act by making an addition of Rs. 24,67,229/- as unexplained money under Section 69A of the Act. Aggrieved by the assessment order dated 30/12/2021, the Assessee preferred an Appeal before the CIT(A). The Ld. CIT(A) vide order dated 30/09/2022, dismissed the Appeal filed by the Assessee. Aggrieved by the order of the Ld. CIT(A), the Assessee preferred the present Appeal on the Grounds mentioned above.

4. The Ld. Counsel for the Assessee addressing on the Additional Grounds of appeal submitted that the A.O. of the searched person handed over the documents to A.O. of the Assessee on 13/08/2020. Based on the above satisfaction note dated 05/01/2021, the DCIT expressed his satisfaction for issuing notice u/s 153C of the Act for Assessment Year 2011-12 to 2017-18, wherein admittedly the income escaping assessment was Rs. 27,76,449/- which is far below the limit of 50 Lakhs limit as provided in fourth proviso to Section 153A of the Act, therefore issuance of notice and initiation of proceedings under Section 153C of the Act itself is void ab-intio, thus sought for allowing the Appeal.

5. Per contra, the Ld. Departmental Representative relying on the orders of the Lower Authorities and sought for dismissal of the Appeal.

6. We have heard both the parties and perused the material available on record. In the present case, the satisfaction has been recorded by the Assessing officer of the Assessee is on 05/01/2021 and based on the satisfaction note the DCIT issued the notice u/s 153C for Assessment Year 2011-12 to 2017-18 the total of income escaped taxation as per the A.O. was worked out to Rs. 27,27,799/-. As per fourth proviso to Section 153A (1) of the Act, there is a specific bar on the A.O. not to invoke provision of Section 153A or Section 153C in case of concealment as per the A.O. is likely to be below aggregate to Rs. 50,00,000/-. It is an undisputed fact that as

per the A.O. the income escaping for taxation was Rs. 27,27,799/- as per the forth proviso to Section 153(A) of the Act which came into effect from 01/04/2017 there is specific bar on the AO to issue notice to the Assessee. Since the satisfaction has been recorded qua the assessee in respect of the year under consideration on 05-01-2021, which has to be construed as date of search and in consideration of the forth proviso to Section 153(A) of the Act. Thus in our considered opinion, as per forth proviso to Section 153(C)(1) of the Act which came into effect from 01/04/2017, there is a specific bar on the AO to initiate the proceedings under Section 153C of the Act. Considering the fact, the satisfaction has been recorded post amendment, the A.O. has ignored the forth proviso to Section 153(A) and thereby committed error in issuing Notice 153C of the Act and also framing the impugned assessment, accordingly, finding merit in the Additional Grounds of appeal of the Assessee, we set aside the assessment order.

7. In the result, Appeal of the Assessee is allowed.

Order pronounced in open Court on 12<sup>th</sup> November, 2024

Sd/-

**(S. RIFAUR RAHMAN)**  
**ACCOUNTANT MEMBER**

Dated: 12/11/2024

*R.N, Sr. PS*

Sd/-

**(YOGESH KUMAR U.S.)**  
**JUDICIAL MEMBER**

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT, NEW DELHI

Draft dictated	06.11.2024
Draft placed before author	06.11.2024
Approved Draft comes to the Sr.PS/PS	
Order signed and pronounced on	
File sent to the Bench Clerk	
Date on which file goes to the AR	
Date on which file goes to the Head Clerk.	
Date of dispatch of Order.	
Date of uploading on the website	