

**IN THE INCOME TAX APPELLATE TRIBUNAL  
(DELHI BENCH: 'A': NEW DELHI)**

**BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER  
AND  
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER**

**ITA No:- 4977/Del/2017  
(Assessment Year- 2011-12)**

The Asstt. Commissioner of Income Tax, Central Circle-18, Jhandewalan, New Delhi-110055.	Vs.	M/s Adish Estates Pvt. Ltd., A-46, FF, Double Story, West Patel Nagar, New Delhi-110008.
<b>PAN No:</b> AAFCA0937J		
<b>APPELLANT</b>		<b>RESPONDENT</b>

**Revenue by** : Shri Om Parkash, Sr. DR  
**Assessee by** : Shri Rajeshwar Painuley, CA

**Date of Hearing** : 11.03.2025  
**Date of Pronouncement** : 13.03.2025

**ORDER**

**PER AMITABH SHUKLA, AM:**

This appeal by Revenue is directed against the order of Commissioner of Income Tax (Appeals)-27, New Delhi, [for short hereinafter referred to as the "(Ld. CIT(A)"] dated 09.05.2017 for Assessment Year 2011-12.

2. Before proceedings, further, we deem it necessary to briefly recapitulate the facts of the present case. Search U/s 132 of the Income Tax Act, 1961 ('the Act') was conducted in Aerens Group. Information was received by the Ld. Assessing Officer ('AO'), from the Investigation Wing, that assessee had transacted into immovable property. With a view to ascertain fair market value of the property, the Ld. AO invoking his powers U/s 142A of the Act, made a reference to District Valuation Officer, on 5/3/2015 to ascertain the fair market value of the property. Meanwhile, the Ld. AO had issued notice U/s 148 to the assessee, on 1/4/2015. Pursuant to the notice, the AO proceeded to complete assessment after making addition of Rs. 2,28,41,677/-. Aggrieved by the said addition, the assessee filed an appeal before CIT(A), who, deleted the impugned addition. The revenue is in appeal against the said action of Ld. CIT(A). The Ld. DR vehemently argued in favour of the Assessing Officer, by relying upon written submission dated 23.03.2022 filed in this case by the Revenue. The Ld. Counsel for the assessee, placed reliance upon the action of Ld. CIT(A) in granting the impugned relief

3. We have heard rival submissions in the light of material available on record. We have noted that jurisdiction of the Ld. AO to issue notice u/s 148 viz a viz action u/s 142A is seminal to the controversy. We deem it necessary to extract the statutory provision of Section 142A of the Act, which are as under:

***“ 142A. [ Estimate by Valuation Officer in certain cases. [ Inserted by Act 23 of 2004, Section 34 (w.r.e.f. 15.11.1972).]***

*(1)For the purposes of making an assessment or re-assessment under this Act, where an estimate of the value of any investment referred to in section 69 or section 69-B or the value of any bullion, jewellery or other valuable article referred to in section 69-A or section 69-B is required to be made, the Assessing Officer may require the Valuation Officer to make an estimate of such value and report the same to him.*

*(2)The Valuation Officer to whom a reference is made under sub-section (1) shall, for the purposes of dealing with such reference, have all the powers that he has under section 38-A of the Wealth-tax Act, 1957 (27 of 1957).*

*(3)On receipt of the report from the Valuation Officer, the Assessing Officer may, after giving the assessee an opportunity of being heard, take into account such report in making such assessment or re-assessment:Provided that nothing contained in this section shall apply in respect of an assessment made on or before the 30th day of September, 2004, and where such assessment has become final and conclusive on or before that date, except in cases where a re-assessment is required to be made in accordance with the provisions of section 153-A.Explanation. - In this section, "Valuation Officer" has the same meaning as in clause (r) of section 2 of the Wealth-tax Act, 1957 (27 of 1957).]"*

4. Notice U/s 148 was issued to the assessee on 01.04.2015 and reference to DVO under Section 142A was made by the Ld. AO on 05.03.2015. Thus, as per provision of section 142A reference to DVO

could be made only during the pendency of any assessment or reassessment proceedings. In the present case, the impugned reference to DVO was made on 05.03.2015 i.e. prior to issuance of notice u/s 148 of the Act, on 01.04.2015. Pertinently, the impugned position has also emanated from the written submissions dated 23.03.2022 of the revenue (supra). It is thus clear that at the time of reference to the DVO, there was no pendency of any assessment or reassessment proceedings. Consequently, the addition made by the AO which is based upon reference to DVO and his consequent report cannot survive. The Ld. DR could not controvert this basic fact of the present case. Accordingly, we are of the considered view that there is no merit in the addition made by the AO which has its direct relationship with DVO's report. Consequently, we are of the opinion that there is no case for interference to the decision of the Ld. CIT(A) in deleting the addition made by the AO. The grounds of appeal, raised by the Revenue are therefore dismissed.

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

Order pronounced in the Open Court on 13.03.2025

**SD/-**  
**(VIKAS AWASTHY)**  
**JUDICIAL MEMBER**

**SD/-**  
**(AMITABH SHUKLA)**  
**ACCOUNTANT MEMBER**

Dated: 13/03/2025.  
Pooja/-

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT NEW DELHI

1.	Date of dictation of Tribunal order	11.3.25
2.	Date on which the typed draft Tribunal Order is placed before the Dictating Member	11.3.25
3.	Date on which the typed draft Tribunal order is placed before the other Member	
4.	Date on which the approved draft Tribunal order comes to the Sr. PS/PS	
5.	Date on which the fair Tribunal order is placed before the Dictating Member for pronouncement	
6.	Date on which the signed order comes back to the Sr.PS/PS	
7.	Date on which the final Tribunal order is uploaded by the Sr.PS/PS on official website	
8.	Date on which the file goes to the Bench Clerk alongwith Tribunal order	
9	Date of killing off the disposed of files on the judisis Portal of ITAT by the Bench Clerks	
10.	Date on which the file goes to the Supervisor (Judicial)	
11.	The date on which the file goes to the Assistant Registrar for endorsement of the order	
12.	Date of Despatch of the order	