

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

**BEFORE MS. MADHUMITA ROY, JUDICIAL MEMBER, AND
SHRI NAVEEN CHANDRA, ACCOUNTANT MEMBER**

ITA No. 1095/DEL/2024 [A.Y. 2011]

The Income-tax Officer
Ward - 1
Karnal

Vs. Shri Opinder Singh Virk
H. No. 138-B, Model Town
Karnal

PAN - AEPPV 9041 P

(Applicant)

(Respondent)

Assessee By : None

Department By : Shri Amit Katoch, Sr. DR

Date of Hearing : 10.03.2025

Date of Pronouncement : 21.03.2025

ORDER

PER NAVEEN CHANDRA, A.M:-

This appeal by the Revenue is preferred against the order of the NFAC, Delhi dated 14.02.2023 for A.Y 2011.

2. The grievances of the Revenue read as under:

"Whether on the facts and in the circumstances of the case, the Ld. CIT(A) has erred in deleting the addition of Rs. 1,72,49,370/- even when no explanation regarding nature and source of the credit entries in the bank account was furnished with supporting documents in view of the Judgement in the case of N. Govindaraju Vs. ITO (2015) 60 taxman.com 333/233 Taxman 376/377 ITR 243 wherein the Hon'ble Karnataka High Court held as under: "If notice under section 148(2) of the Act is found to be valid, then addition can be made on all grounds or issues which may come to notice of Assessing Officer subsequently during course of proceedings under section 147 of the Act even though reason for notice for 'such income which may have escaped assessment may not survive."

3. None appeared on behalf of the assessee nor any adjournment was sought. The ld. DR was heard at length. Case records carefully perused. With the assistance of the ld. DR, it was decided to adjudicate upon the issues on the basis

4. The ld. DR relied on the orders of the authorities below.

5. Briefly stated, the facts of the case are that the case of the assessee was reopened u/s 148 of the Income-tax Act, 1961 [the Act, for short] on the basis of information that the assessee had deposited cash of Rs.

1,06,59,000/-, paid Rs. 2,22,85,943/- as per AIR for purchase of units of mutual fund, made time deposit of Rs. 85,00,000/- with the account maintained with HDFC Bank Ltd. as per CIB, expended Rs. 8,00,000/- as per CIB for purchase of mutual fund units and Rs. 5,70,108/ interest received as per 26AS during the financial year 2010-11 relevant to assessment year 2011-12.

6. The Assessing Officer, not satisfied with the reply of the assessee, made addition of Rs. 1,72,49,370/- on account of profit arising out of transaction in the mutual funds reflecting in the Indus Ind Bank account.

7. Aggrieved, the assessee went in appeal before the ld. CIT(A) who decided the issue in favour of the assessee.

8. Now the Revenue is aggrieved and is in appeal before us.

9. We have heard the rival submissions and have perused the relevant material on record. The basic gist of the case in hand is that the case was reopened on account of deposit of cash in HDFC Bank and IDBI Bank. It was the finding of the ld. CIT(A) that addition was made on the basis of credit of Rs.1,72,49,370/- in the Indus Bank. The ld. CIT(A) has given a categorical finding which we reproduce as under for ready reference:

"6. In the order u/s 143(3) 25.02.2014, the AO has admitted that Rs.7,74,13,335 (Rs.6,19,31,108 according to the appellant) was received by the appellant as enhanced compensation and interest thereon on account of compulsory acquisition of property. The appellant made various investment out of this compensation which was credited in the Indusind Bank. These investments became the subject of re-assessment proceedings. It is seen that the AO has not made any addition on account of any of the grounds for re-opening mentioned in Para 1 of the re- assessment order, accepting the submissions of the appellant filed during scrutiny proceedings. Instead, the AO made an addition of Rs. 1,72,49,370 being credits in the Indus-Ind bank. In the re-assessment order, the AO states that these are credits on account of 'returns from mutual funds'. According to the AO details related to these were filed by the assessee on the last but one day before the time barring date for assessment and hence could not be verified. The AO treated these credits as unexplained. If the nature of these credits is clear, treating such credits as unexplained is wrong. Hence the addition made by the AO cannot stand. The addition made by the AO is therefore deleted. However while giving effect to this order if there is any taxable component to the credits in bank on account of mutual funds, the same may be brought to tax."

10. After perusing the order of the Id. CIT(A) and material on record, we find no reason to interfere with the well reasoned order of the Id. CIT(A). We further find that in the instant case, the AO reopened the assessment

on account of deposit of cash in HDFC Bank and IDBI Bank, however, the AO ultimately made addition on the basis of credits of Rs.1,72,49,370/- in the Indus Bank. We are of the considered view that it is not legally permissible for the AO to reopen the case based on one reason and make additions on reasons other than what was recorded for reopening the case. In such a situation, we find that the hon'ble Delhi Court in the case of **ATS Infrastructure Ltd** reported in [2024] 166 taxmann.com 61 (Delhi), affirming its decision in *Ranbaxy Laboratories Ltd. vs. CIT* , 336 ITR 136 (Del) has held as follows:

25. The position in law which emerges from the aforesaid discussion is that while it is true that the AO would have to establish that reassessment is warranted on account of information in its possession which appears to indicate that income chargeable to tax had escaped assessment, once the assessment itself is reopened it would not be confined to those subjects only. This would, however, be subject only to one additional rider and that being if, in the course of reassessment, the AO ultimately comes to conclude that no additions or modifications are warranted under those heads, it would not be entitled to make any additions in respect of other items forming part of the original return.

Following the above decision accordingly, the grounds taken by the Revenue stand dismissed and we direct the Assessing Officer to delete the additions.

11. In the result, the appeal of the Revenue in ITA No. 1095/DEL/2024 is dismissed.

The order is pronounced in the open court on 21.03.2025.

Sd/-

**[MADHUMITA ROY]
JUDICIAL MEMBER**

Sd/-

**[NAVEEN CHANDRA]
ACCOUNTANT MEMBER**

Dated: MARCH, 2024.

VL/

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,
ITAT, New Delhi

Sl No.	PARTICULARS	DATES
1.	<i>Date of dictation of Tribunal Order...</i>	
2.	<i>Date on which the typed draft Tribunal Order is placed before the Dictation Member</i>	
3.	<i>Date on which the fair Tribunal Order is placed before the other Member</i>	
4.	<i>Date on which the approved draft Tribunal Order comes to the Sr. P.S./P.S.</i>	
5.	<i>Date on which the fair Tribunal Order is placed before the Dictating Member for pronouncement</i>	
6.	<i>Date on which the signed order comes back to the Sr. P.S./P.S</i>	
7.	<i>Date on which the final Tribunal Order is uploaded by the Sr. P.S./P.S. on official website</i>	
8.	<i>Date on which the file goes to the Bench Clerk alongwith Tribunal Order</i>	
9.	<i>Date of killing off the disposed of files on the judiSIS portal of ITAT by the Bench Clerks</i>	
10.	<i>Date on which the file goes to the Supervisor (Judicial</i>	
11.	<i>The date on which the file goes to the Assistant Registrar for endorsement of the order</i>	
12.	<i>Date of Despatch of the Order</i>	