

**IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH", KOLKATA**

**SHRI GEORGE MATHAN, JUDICIAL MEMBER  
SHRI SANJAY AWASTHI, ACCOUNTANT MEMBER**

**I.T.A. No. 253/KOL/2025  
(Assessment Year 2013-14)**

**M/s Fantastic Financial Consultants Pvt. Ltd.,**

7, Mango Lane, 3<sup>rd</sup> Floor, Room No. 311,

Kolkata - 700001

[PAN: AABCF3328C]

..... **Appellant**

**vs.**

**The Income Tax Officer,**

**Ward – 9(1), Kolkata,**

Aayakar Bhawan, P-7,

Chowringhee Square,

Kolkata - 700069

..... **Respondent**

**Appearances by:**

Assessee represented by

: Abhishek Bansal, FCA

Department represented by

: Abhijit Adhikary, Addl. CIT

Date of concluding the hearing : 26.06.2025

Date of pronouncing the order : 04.07.2025

**ORDER**

**PER SANJAY AWASTHI, ACCOUNTANT MEMBER**

1. This appeal arises from the order u/s 250 of the Income Tax Act, 1961 (hereafter "the Act"), passed by the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, vide order dated 24.12.2024.

1.1 In this case, the Ld. AO vide his order dated 12.05.2023, added an amount of Rs. 1,49,00,000/- u/s 69A of the Act. The impugned amount was reportedly received from one M/s Nityadhara Dealcomm Pvt. Ltd. The Ld. AO has given a finding that the creditworthiness aspect and the genuineness aspect of this transaction could not be proved by the assessee and hence the same was added. The Ld. AO has also recorded on page 2 of

his order that a number of opportunities were given to the assessee but it appears that only partial compliance was made in response to such notices. In fact, there is a recording of fact in the Ld. AO's order that the assessee failed to conclusively prove the transactions.

1.1 Aggrieved with this action of the Ld. AO, the assessee approached the CIT(A) who is seen to have remanded back the issue to the Ld. AO under the provisions of section 251(1) of the Act. It is noteworthy that the assessee had also challenged the assumption of jurisdiction by the Ld. AO, in as much as the notice u/s 148 of the Act was claimed to have been issued beyond the statutory time limit allowed for doing the same. Since, the finding of Ld. CIT(A) would have a bearing on the decision in the present case hence, the same deserves to be extracted:

*“6.1 I have carefully considered the facts and circumstances of the case and the submission of the appellant.*

*6.2 The appellant could not plead the case before the Assessing Officer properly and order was passed u/s 147 r.w.s 144 of the Act. Section 142(2) requires that due enquiries should be conducted to arrive at true and correct income of the taxpayer for the given year. Section 143(3) specifies that assessee should present evidence in support of the computation of taxable income in their return of income, and, may also submit any further evidence as required by the Assessing Officer. Due to the peculiar circumstances in this case, the appellant was not able to present his contentions before the Assessing Officer. Appellant, however, has now produced submissions on 06.02.2024 and 04.12.2024, for consideration of the revenue. Hence, in the interest of substantial justice and to ensure fair play, I am of the view that appellant should be given another chance to present the case before AO with supporting documents and evidences.*

*Accordingly, in view of the power conferred vide proviso to clause (a) of sub-section 1 of section 251 of the Act applicable w.e.f. 01/10/2024, I hereby set aside the impugned assessment order dated 12.05.2023 passed u/s 147 r.w.s 144 of the Act to the file of the AO for fresh assessment after affording reasonable opportunities to the appellant and diligently adhering to the principle of natural justice. The appellant is directed to comply with notices issued by the AO.*

*6.3 The AO is therefore directed to frame the assessment afresh after giving the appellant reasonable opportunity of being heard.*

*In the result, the appeal is set aside.*

1.2 Aggrieved further with the action of Ld. CIT(A), the assessee is in appeal with the following grounds:

“1. For that the Ld. CIT(A) erred in setting aside the assessment order on the ground that the assessee adduced additional evidences whereas no additional evidence whatsoever were so adduced.

2. For that even otherwise, the Ld. CIT(A) erred in not deciding the appeal ground wise whereas there were several grounds relating to the validity of the reassessment proceedings.

3. For that the notice u/s 148 deemed as notice u/s 148A(b) is without jurisdiction and therefore bad in law. Therefore all consequential proceedings are also bad in law.

4. For that the order u/s 148A(d) and the notice u/s 148 are barred by limitation. Therefore all consequential proceedings are also bad in law.

5. For that the Ld. AO along with issue letter dated 26.05.2022 provided the information received but not the copies of materials referred therein as mandated by the Hon'ble Supreme Court in the case of Union of India vs. Ashish Agarwal in CIVIL APPEAL NO. 3005/2022 decided on 04.05.2022. As such the proceeding in violation of the direction of the Hon'ble Supreme Court is bad in law.

6. For that the proceedings are barred by limitation since in the issue letter dated 26.05.2022 there is no observation that the Ld. AO had any books of accounts or documents or evidence in his possession that income of Rs.50 lakhs or more has escaped assessment which is represented by any asset.

7. For that the Ld. AO erred in not providing the assessee copies of approval(s) purportedly obtained before passing of order u/s 148A(b) and issuance of notice u/s 148. Therefore it appears that either no approval was obtained at all or the approval was granted mechanically. Therefore the order u/s 148A(d) and notice u/s 148 are bad in law.

8. For that the notice u/s 148 issued without DIN is invalid and therefore all consequential proceedings are bad in law.

9. For that even otherwise, against the notice u/s 148 dated 27.07.2022, DIN was generated on 19.08.2022 i.e. after 15 days. Therefore the notice u/s 148 is invalid and all consequential proceedings are bad in law.

10. For that the notice u/s 148 is being vague is invalid in as much as there is nothing to show that the same has been issued either under clause (1) or clause (ii) of Explanation I to section 148.

11. For that the notices u/s 148A(b), order u/s 148A(d) and the noticed u/s 148 are bad in law being in violation of Sec. 151A of the Act read with Notification No. S.O. 1466(E) dated 29.03.2022 issued by the Hon'ble CBDT.

12. For that in the instant case, the Ld. AO initiated reassessment proceedings in respect of alleged receipts of Rs.149 Lakh from Nityadhara Dealcomm Pvt. Ltd. whereas in fact the assessee received only Rs.84 Lakh. As such the very reason for which reassessment proceeding is initiated is factually incorrect. Therefore, the reassessment proceeding has been initiated merely based upon borrowed satisfaction, therefore bad in law

13. For that the Ld. AO erred in assessing Rs.149 Lakh allegedly received from Nityadhara Dealcomm Pvt. Ltd whereas actually the assessee received only Rs. 84 Lakh. As such the addition to the extent of Rs.65 Lakh is liable to be deleted.

14. For that Ld. AO erred in making addition of balance amount of Rs.84 Lakh (i.e. 149 Lakh minus 65 Lakh) which received against sale of investments that were acquired in earlier year whereas the assessee supplied evidences in support of acquisition of shares in earlier years, sale during the year including copies of invoices, ledger, bank statement, copy of income tax return, fair market value certificate and for purchases return of allotment, bank statements, assessment order accepting the return of income and no defect were found therein.

15. For that even otherwise, the Ld. AO erred in assessing the amount Rs.149 Lakh as unexplained money whereas in fact the amount actually received was Rs.84 Lakh only that too was duly recorded in the books of account and the assessee explained the nature and source of such receipts.

16. For that under the facts and circumstances of the case, the addition made by the Ld. AO is liable to be deleted.

17. For that the Ld. AO erred in charging interest u/s 234A and 2348. Even otherwise, the interest charged is arbitrary and excessive.

18. For that the appellant craves leave to add, alter or withdraw any ground(s) of appeal on or before hearing of the appeal.”

2. Before us, the Ld. AR pointed out that the Ld. CIT(A) had not adjudicated on all the grounds before him and had in a cryptic manner merely set aside the proceedings to the Ld. AO. The Ld. AR pointed out that the notice u/s 148 of the Act having been issued on 27.07.2022 was time barred as per the case of Ashish Agarwal reported in 444 ITR 1 and the case of Rajeev Bansal reported in 469 ITR 46 (SC), and this fact should have been duly considered by the Ld. CIT(A). The Ld. AR alternatively vehemently argued that even on merit the assessee had a good case and if the Ld. CIT(A) had gone through the evidences before him, he would have come to a different conclusion than what is visible from the impugned order.

2.1 The Ld. DR relied on the orders of authorities below.

3. We have carefully gone through the documents before us, the orders of authorities below and have also heard the Ld. AR/DR. Right at the outset, it is clear that the Ld. CIT(A)'s order is a non-speaking order where there is no evidence of any proper application of mind. We find that the act of setting aside to the Ld. AO has also been done in a mechanical manner and there is no evidence of appreciating any of the facts or even the law by

him. Accordingly, we set aside the impugned order and remand the same back to the file of Ld. CIT(A) for fresh adjudication not only on merits but also on the viability of the reopening proceedings, considering the case laws of Ashish Agarwal (supra) and Rajeev Bansal (supra). We direct accordingly.

4. In the result, appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on 04.07.2025

Sd/-  
**(George Mathan)**  
**Judicial Member**

Sd/-  
**(Sanjay Awasthi)**  
**Accountant Member**

Dated: 04.07.2025  
AK, Sr. P.S.

*Copy of the order forwarded to:*

1. M/s Fantastic Financial Consultants Pvt. Ltd.,
2. The Income Tax Officer, Ward – 9(1), Kolkata
3. CIT(A)
4. CIT
5. CIT(DR)

//True copy//

By order

Assistant Registrar, Kolkata Benches