

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "E": NEW DELHI**

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

**ITA No. 3821/DEL/2023
Assessment Year: 2013-14**

Loksatya Media Pvt. Ltd., 3rd Cabin No. 3, Loksatya, A-5, Main 100 foot Road, Chajjupur North, Shahdara-110032.	<u>Vs</u>	Income Tax Officer, Ward-15(1), New Delhi.
APPELLANT		RESPONDENT
Assessee represented by		Shri Deepanshu Singla, Adv.; & Shri Amit Garg, Adv.
Department represented by		Shri Manoj Tiwari, Sr. DR
Date of hearing		30.07.2025
Date of pronouncement		31.07.2025

ORDER

PER Ms. MADHUMITA ROY, JM:

The instant appeal, preferred by the assessee, is directed against the order dated 21.02.2019 passed by the Ld. CIT(A)-5, New Delhi, arising out of the order dated 30.03.2016 passed by the Income Tax Officer- Ward 15(4), Delhi, under Section 143(3) of the Income Tax Act, 1961 (hereinafter referred to as "the Act") for Assessment Year 2013-14.

2. The assessee has raised following grounds of appeal:

"1. That under the facts and circumstances of the case, the impugned order dated 21.02.2019 passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as "the Act"), dismissing the grounds of appeal and determining the total income at Rs. 2,00,70,570/- in place of returned

income as returned by the assessee is bad in law on account of several grounds and assessee/appellant denies its liability to be assessed for any income other than the income already returned by the assessee and the consequential demand of Rs. 89,55,560/-.

2. That under the facts and circumstances of the case the Ld. CIT(A) has erred in law as much as in fact while passing the impugned order as the Ld. CIT(A), has dismissed the grounds of the appeal on account of not making any submissions during the appeal proceedings, but it is imperative to note that such non-compliance was only due to the lack of attention made by the counsel of the assessee and the assessee was not at all fault in it.

3. That under the facts and circumstances of the case the Ld. CIT(A) has erred in law as much as in fact while passing the impugned order, as the Ld. CIT(A) has upheld the addition made by the Ld. AO in the assessment order dt. 30.03.2016 passed without following the due provisions of law and without having proper jurisdiction.

4. That under the facts and circumstances of the case the Ld. AO has erred in law as much as in fact while passing the impugned order, as the Ld. AO have made addition of Rs. 1,99,00,000/- on account of share application money received by the assessee, but the Ld. AO have failed to appreciate that such share application money is invested by genuine buyers and only because of non-compliance by them to the notices issued u/s 133(6), the share subscribers cannot be held as ingenuine.

5. That under the facts and circumstances of the case the Ld. AO has erred in law as much as in fact while passing the impugned order, as the Ld. AO have made addition of Rs. 1,70,570/- (being 10% of the expenses incurred under the head administrative and general expenses), after assuming that some of the expenses are personal in nature and some are unverifiable, however the Ld. AO have failed to produce any inquiry report in support of such addition and the addition has been made merely on the basis of surmises, conjectures and presumptions.

6. That under the facts and circumstances of the case the Ld. AO has erred in law as much as in fact while passing the impugned order, as the Ld. AO have passed the impugned order based only on conjectures, surmises and presumptions.

7. That under the facts and circumstances of the case the Ld. AO has erred in law as much as in fact in initiating penalty proceedings u/s 271(1)(c), 271(1)(b) and 271(1)(d) of the Act, the issuance of penalty notice may be held invalid.

8. That under the facts and circumstances of the case and in law the levy of interest u/s 234A, 234B and 234C of the Act is contrary to law and may be deleted.

9. That appellant craves to leave, alter, amend or modify the grounds of appeal before or during the hearing of the appeal.

10. That each ground is independent and without prejudice to each other.

3. It is noticed that the instant appeal filed by the assessee is barred by limitation as there is delay of 1701 days in filing the appeal. The assessee has filed application seeking condonation of delay in filing the appeal. Considering the averments made in the condonation application, involving covid-19 period the delay in filing the appeal is condoned and the appeal is taken up for hearing.

4. Ld. Counsel for the assessee at the outset submitted that the ld. First Appellate Authority has not dealt with the matter in terms of the provisions of Section 250(6) of the Act and has dismissed the assessee's appeal, ex parte, without considering the merits on the issue raised before him. He prayed that the matter may be restored to the file of ld. CIT(A) for decision afresh on merits after affording reasonable opportunity of being heard to the assessee.

5. Ld. DR relied upon the order of ld. CIT(A).

6. We have heard rival submissions and perused the material available on record. It is revealed from the order of the Ld.CIT(A) that there was no representation on behalf of the assessee before him inspite of notices being sent, therefore, having no other alternative, the Ld. CIT(A) proceeded with the appeal

and finalized the same ex parte. However, it appears that the Ld. CIT(A) has not dealt with the matter on merits in terms of provisions of Section 250(6) of the Act by passing a reasoned order on merits on the issue raised before him and hence in our considered opinion the matter requires to be remitted back to the file of Ld. CIT(A) for consideration of the issue afresh by granting an opportunity of being heard to the assessee and upon considering the evidence on record or any other evidence which the assessee may choose to file at the time of hearing of the matter. We also make it clear that in the event the assessee does not cooperate with the Ld. CIT(A), the said authority would be at liberty to proceed with the matter and finalize the same strictly in accordance with law. We order accordingly.

7. In the result, assessee's appeal is allowed for statistical purposes.

Order pronounced in open court on 31.07.2025.

Sd/-

(NAVEEN CHANDRA)
ACCOUNTANT MEMBER

Sd/-

(MS. MADHUMITA ROY)
JUDICIAL MEMBER

Dated: 31.07.2025.

MP

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI