

**IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR**

**BEFORE SH. UDAYAN DASGUPTA, JUDICIAL MEMBER
AND SH. KHETTRA MOHAN ROY, ACCOUNTANT MEMBER**

I.T.A. Nos. 106 to 109/Asr/2025

Assessment Years: 2015-16 to 2017-18 & 2019-20

Deputy Commissioner of Income
Tax, Central Circle, Srinagar

Vs.

Jalal Ud Din Khuroo,
2nd Petrol Pump, Qamarwari,
Parimpora, Srinagar,
J & K-190017
[PAN: EUQPK 7086C]

(Appellant)

(Respondent)

Appellant by : Sh. Shabir Ahmad Mir, C.A.
Respondent by : Smt. Balvinder Kaur, CIT- D.R.
Date of Hearing : 20.08.2025
Date of Pronouncement : 22.08.2025

ORDER

Per Udayan Dasgupta, J.M.:

All the above four appeals filed by the revenue against the order of the Id. CIT (A)-5, Ludhiana all dated 27.12.2024 passed u/s 250(6) of the Income Tax Act, 1961 has emanated from the order of the ACIT, Central Circle, Srinagar passed u/s 153A r.w.s. 144 of the Act, 1961 all dated 21.01.2022.

2. Grounds of appeal taken by the revenue are almost identical for all the years and the facts of the case and the issues contained therein are also identical and as such all the four appeals are taken up together for disposal for the sake of convenience.

3. Grounds of appeal taken by the revenue in Form No. 36 are as follows in ITA No. 106/Asr/2025:

- “1. Whether upon facts and circumstances of the case, the ld. CIT(A) has erred in setting aside the order to the file of AO for fresh assessment without giving any reasons and without going into the merits of the assessment order?”*
- 2. The appellant craves leave to add, amend, modify, vary, omit or substitute any of the aforesaid grounds of appeal at any time before or at the time of hearing of the appeal.”*

4. Brief facts emerging from records are that the appeal has been filed by the assessee before the first appellate authority against the order of the AO u/s 153A r.w.s. 144 of the Act, 1961 passed by the ACIT, Central Circle, Srinagar. During the course of hearing before the first appellate authority, submission has been made by the assessee along with the documentary evidences, against which remand report has been obtained from the AO. It has been observed by the ld. first appellate authority that the proper compliance has not been made by the assessee in course of assessment

proceedings and by virtue of the amended provisions of section 251(1)(a) of the Act, the ld. first appellate authority thought it fit and proper to set aside the assessment back to the files of the Assessing Officer with a direction to make a fresh assessment order after affording reasonable opportunity of hearing to the assessee.

5. Now, the revenue has come up in appeal before the Tribunal, challenging the set aside order, passed by the ld. first appellate authority on the grounds contained in the memorandum of appeal in Form No. 36.

6. In course of hearing, the ld. DR submitted that the first appellate authority has erred in setting aside the order to the files of the AO for fresh assessment without going into the merits of the case and the ld. first appellate authority should have adjudicated on all the issues, more so, when remand report has been obtained from the AO, in response to written submission filed by the assessee. However, the ld. DR could not substantiate as to how the order of the ld. first appellate authority is erroneous or perverse.

7. It is seen from records that the assessment order has been passed *ex-parte u/s 153A r.w.s. 144* in absence of any compliance by the assessee and by virtue of the amended provisions of section 251(1)(a) of the Act, the ld. first appellate authority is empowered to set aside the assessment and refer the case back to the AO for making

a fresh assessment if the appeal is against the order of assessment made u/s 144. In the instant case, the ld. first appellate authority has rightly concluded that the assessment should be done afresh after affording reasonable opportunity of being heard to the assessee and after considering all documentary evidences and as such, has set-aside the matter back to the files of the AO.

8. On the facts and circumstances of the case, we are in agreement with the opinion of the ld. first appellate authority who has taken a judicious approach and we find no reason to take any different view in the matter. As such, we uphold the order of the ld. first appellate authority and the appeals of the revenue are dismissed being devoid of merits.

9. In ITA Nos. *107 to 109/Asr/2025* for the Assessment Years: 2016-17, 2017-18 & 2019-20, all the appeals are factually identical and similar grounds taken by the revenue in respect of all the orders passed ex-parte by the Assessing Officer and the same has been set aside by the ld. first appellate authority for fresh assessment.

10. Our observations in ITA No.106/Asr/2025 applies *mutatis mutandis* to all the aforesaid appeals. As such, we uphold the order of the ld. first appellate authority and were also of the view that the assessment orders passed ex-parte has been judiciously set aside for fresh assessment proceedings.

11. In the result, all the appeals filed by the revenue are dismissed being devoid of merits.

Order pronounced in open court as on 22.08.2025.

Sd/-
(Khettra Mohan Roy)
Accountant Member

Sd/-
(Udayan Dasgupta)
Judicial Member

GP/Sr.PS

Copy of the order forwarded to:

- (1) The Appellant:
- (2) The Respondent:
- (3) The CIT concerned
- (4) The Sr. DR, I.T.A.T

True Copy

By Order