

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "A" NEW DELHI**

**BEFORE SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER
AND
SHRI AVDHESH KUMAR MISHRA, ACCOUNTANT MEMBER**

आ.अ.सं./I.T.A No.6057/Del/2024

निर्धारणवर्ष/Assessment Year:2023-24

AQUILA TECHNOLOGIES AND INTEGRATION SOLUTIONS PVT. LTD., E-18, 3 rd Floor, NDSE, S.O., Andrews Ganj, Shahput Jat, South East Delhi. PAN No.AARCA8841K	<u>बनाम</u> Vs.	DCIT, Circle-43(1), Delhi.
अपीलार्थी Appellant		प्रत्यर्थी/ Respondent

Assessee by	Shri Bhupenderjit Kumar, Adv. & Ms. Raina Majumdar, Adv.
Revenue by	Shri Ajay Kumar Arora, Sr. DR

सुनवाईकीतारीख/ Date of hearing:	11.08.2025
उद्घोषणाकीतारीख/ Pronouncement on	26.09.2025

आदेश /O R D E R

PER C.N. PRASAD, J.M.

This appeal is filed by the Assessee against the order of the Ld. Addl./JCIT-2, Pune dated 30.11.2024 for the AY 2023-24. The assessee raised the following grounds:

1. "That the Ld. Joint Commissioner of Income-tax (Appeal)-2 Pune (hereinafter referred to as "JCIT(A)") has erred in passing the impugned order dated 30.11.2024 u/s 250 of the Income Tax Act, 1961 confirming the intimation order dated 12.01.2024 passed by the Deputy Director of Income-tax, Centralized Processing Center, Bengaluru (hereinafter referred

to as the “AO”) u/s 143(1) of the Act in the case of the Appellant for the Assessment Year (hereinafter referred to “AY”) 2023-24, wherein an addition of Rs.6,54,16,880/- was made by the AO to the total Income declared by the Appellant on account of forcible application of the provisions of section 115BAA(1) of the Act which resulted in denial of the Appellant's claim of deduction under section 80IAC of the Act made in computing the total income in the return of income filed by the Appellant for A.Y. Act 2023-24.

- 2. That the Ld. JCIT(A) has erred in passing the impugned order dated 30.11.2024 confirming the intimation order dated 12.01.2024 passed by the AO under section 143(1) of the Act because the said intimation order has been passed in violation of the settled principles of natural justice, without providing reasonable and sufficient opportunity to the Appellant, thus completely ignoring the First Proviso and the Second Proviso to clause (a) of the sub-section (1) of the Section 143 of the Act.*
- 3. That the Ld. JCIT(A) has erred in confirming the intimation order dated 12.01.2024 passed by the AO under section 143(1) of the Act, because the AO exceeded his jurisdiction which was permissible under section 143(1) of the Act and therefore, the intimation order is vitiated by lack of jurisdiction.*
- 4. That the impugned order dated 30.11.2024 confirming the intimation order dated 12.01.2024 passed by the AO under section 143(1) of the Act is illegal and bad in law as it has been passed in violation of the Proviso of sub-section (1) of the section 115BAA of the Act read with sub-section (2) of Section 115BAA of the Act.*
- 5. That the Appellant craves leave to add, amend, alter or delete any of the grounds of appeal.”*

2. The Ld. Counsel for the assessee, at the outset, submitted that in this case intimation u/s 143(1) was passed without providing any opportunity to the assessee as per proviso to clause (a) of section 143(1) of the Act. Referring to the said proviso Ld. Counsel

submitted that this proviso clearly prohibits making of any adjustment unless an intimation is given to the assessee in writing/electronic mode proposing any such adjustment in passing the intimation u/s 143(1) of the Act. Therefore, it is submitted that the provision for giving an opportunity to the assessee before making any adjustment u/s 143(1) of the Act is mandatory.

3. In support of the above contentions, the Ld. Counsel for the assessee placed reliance on the following decisions:

S.No.	Particulars	Page No.
1.	Income-tax Officer (E) vs. Camellia Educare Trust [2023] 152 taxmann.com 304 (Kolkata - Trib.)	1-10
2.	Samsung C And T Corporation India Pvt. Ltd. vs. DCIT [ITAT, Delhi in ITA No.2183/Del/2023 dated 06.06.2025]	11-20
3.	Dynamic Powertech P. Ltd. vs. DCIT [ITAT, Jaipur in ITA No.231/JP/2025 dated 08.05.2025]	21-41
4.	DCIT vs. Adidas Marketing P. Ltd. ITA No.648/Del/2023 dated 24.07.2024	42-53

4. Coming to the adjustment made by the CPC, Ld. Counsel for the assessee submitted that the impugned intimation is bad in law and *void* because the AO changed the taxation option opted by the assessee in the return of income from “yes” to “no” in the intimation, which an adjustment clearly beyond the scope of section 143(1) of the Act. Ld. Counsel referring to the provisions of section 143(1) submitted that the adjustment made by CPC falls under none of the adjustments mentioned in clause (a) of sub-section (1) of section 143 of the Act. Ld. Counsel therefore submitted that section

143(1)(a) does not empower the AO/CPC to make an adjustment of the taxation option opted by the assessee thereby changing any such option by the AO/CPC, illegally and it is beyond the scope of said section.

5. Heard rival submissions, perused the orders of the authorities below.

6. On perusal of proviso to sub-clause (a) of section 143(1) clearly stipulates that no adjustment provided in sub-clause (a) shall be made unless an intimation is given to the assessee of such adjustments either in writing/electronic mode. It is the contention of the Ld. Counsel the CPC before making adjustments no intimation/opportunity is given to the assessee to make its submissions. Attention of the Bench was also drawn to page 243 of the Paper Book which is the Income tax portal which do not suggests of giving any intimation to the assessee before making any adjustment. Therefore, since no intimation is given before passing the intimation u/s 143(1) as provided in proviso to clause (a) such intimation is bad in law.

7. We also further observed that the option of the assessee in the return of income opted as “no” for the applicability of provisions of

section 115BAA was changed to option “yes” by the CPC an adjustment which is clearly beyond the scope of section 143(1) of the Act. The CPC while processing the return u/s 143(1) cannot tinker with any of the options opted by the assessee. Such an adjustment is beyond the scope of the provisions of section 143(1) of the Act. Hence, the adjustment made by the CPC is directed to be deleted.

8. In the result, appeal of the Assessee is allowed.

Order pronounced in the open court on 26.09.2025

Sd/-
(AVDHESH KUMAR MISHRA)
ACCOUNTANT MEMBER

Sd/-
(C.N. PRASAD)
JUDICIAL MEMBER

Dated: 26.09.2025

**Kavita Arora, Sr. P.S.*

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI