

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI “G” BENCH: NEW DELHI**

**BEFORE SHRI ANUBHAV SHARMA, JUDICIAL MEMBER &  
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

**ITA No.3099/Del/2023**

**[Assessment Year : 2012-13]**

Sankhwal Realtors Pvt.Ltd., 6/30, Shanti Niketan, New Delhi-110021. <b>PAN-AAQCS2784N</b>		vs	ITO, Ward-22(3), C.R. Building, New Delhi-110002.
<b>APPELLANT</b>			<b>RESPONDENT</b>
<b>Appellant by</b>	Shri Sumit Singh, CA & Shri Praveen Goel, CA		
<b>Respondent by</b>	Shri Dheeraj Kumar Jaiswal, Sr. DR		
<b>Date of Hearing</b>	02.07.2025		
<b>Date of Pronouncement</b>	30.09.2025		

**ORDER**

**PER MANISH AGARWAL, AM :**

The present appeal is filed by the assessee against the order dated 08.09.2023 passed by Ld. Commissioner of Income Tax (A), National Faceless Appeal Centre (“NFAC”), Delhi [“Ld.CIT(A)”] in Appeal No.CIT(A), Delhi-8/10847/2019-20 u/s 250 of the Income Tax Act, 1961 [“the Act”] arising out of assessment order dated 07.12.2019 passed u/s 147/143(3) of the Act pertaining to assessment year 2012-13.

2. Brief facts of the case are that assessee company filed its return of income on 26.09.2012, declaring loss of INR 11,859/-. The assessee company had purchased a piece of land at Village Dera Mandi, New Delhi amounting to INR 1,80,00,000/-. The AO

obtained a certified copy of Sale Deed of the land from Sub-Registrar, Kalkaji, New Delhi and observed that total sale consideration of land was INR 1,80,00,000/- and stamp duty paid on transfer of the property was of INR 10,80,000/- and other charges of INR 1,80,100/- and accordingly, total cost of land was INR 1,92,60,000/- including stamp duty paid and other charges was recorded in the books of accounts. The AO has information from Investigation wing that the said land was purchased by the assessee for INR 39,18,64,240/- and thus AO recorded the satisfaction that investment to the extent of INR 37,38,64,240/- has escaped assessment and the reassessment proceedings were initiated and notice u/s 148 was issued. Thereafter, submission of the assessee were considered and the re-assessment order was passed at a total income of INR 84,88,141/- by making an addition of INR 85 Lakhs as unexplained expenditure u/s 69C of the Act being the amount paid out of the books of accounts as the total cost was recorded at INR 1,07,60,100/- as against total cost of 1,92,60,000/- incurred by assessee and no addition is made towards the additional cost of investment of Rs. 37,38,64,240/- for which reassessment proceedings were initiated.

3. Against the said order, assessee filed an appeal before Ld. CIT(A) who vide order dated 08.09.2023, dismissed the appeal of the assessee.

4. Aggrieved by the order of Ld.CIT(A), assessee is in appeal before the Tribunal by taking following grounds of appeal:-

1. *“That on the facts and in the circumstance of the appellant's case, the Ld. AD erred in law in assuming jurisdiction under section 148 of the Income Tax Act, 1961 ('the Act') and as such the Re-Assessment order passed u/s. 147/143(3) of the Act is bad in law for the following reason:*

*(a) That notice was issued merely relying on the information provided by the ACIT, Central Circle -30, New Delhi without any independent enquiry or application of mind;*

*(b) That no addition was made on account of reasons recorded on the basis of which the proceedings were initiated.*

2. *That the Ld. CIT(A) erred in confirming the addition of Rs. 85,00,000/ u/s. 69C of the Act being amount paid by Sh. Ravinder Sharma, Shareholder/Director as his proportionate contribution, towards purchase of land by the appellant company for the reason that creditworthiness of Sh. Ravinder Sharma not established, ignoring the evidence of source of payments; bank statement, affidavit; confirmation furnished by Appellant before the Ld. AO,*

3. *That the Ld. CIT(A), whilst upholding the addition under section 69C of the Act, failed to consider and appreciate that, inadvertently the payment made by Sh. Ravinder Sharma, as shareholder/-director, on behalf of company not recorded in books of company though rectified in AY 2018-19 and such accounting error cannot result in treating the amount as Undisclosed Expenditure,*

4. *That the appellant craves, leave to add, alter, amend, substitute, forgo, any or all the grounds of appeal before or at the time of hearing.”*

5. In support of **Ground of appeal No.1(b)** raised by the assessee, Ld.AR submits that as per the reasons recorded for re-opening the assessment, satisfaction was recorded for the escapement of income of INR 37,38,64,240/- being cost of investment incurred by the assessee over and above the consideration of INR 1,92,60,000/- recorded in the sale deed, based on the information received from the Investigation Wing of the Department. He further submitted that from the perusal of the assessment order, it could be seen that addition has been made of INR 85 Lakhs holding that the assessee has purchased the land for

a sum of INR 1.80 crores and paid the stamp duty and other charges of INR 12,60,000/- and thus, the total cost of land comes to INR 1,92,60,000/-. However, in the books of accounts, value of stock-in-trade was increased by INR 1,07,60,100/- thus, there was a shortcoming of INR 85 Lakhs for which the addition was made. Ld. AR submits that no addition whatsoever is made with respect to the satisfaction reached in the reason recorded before issue of notice u/s 148 for reopening the assessment towards the alleged additional undisclosed cost of investment of INR 37,38,64,240/- made in the acquisition of the said property. He thus requested that the reassessment order so passed by making addition of INR 85.00 lacs is without jurisdiction and deserves to be hold bad in law. In this regard, reliance is placed in the judgements of Hon'ble Delhi High Court in following cases:-

- (i) *ATS Infrastructure Ltd. v/s. ACIT, [2024] 166 taxmann.com 61 (Delhi)/[2025] 473 ITR 595 (Delhi) [18-07-2024] - Relevant Para No.18, 23,24,& 25;*
- (ii) *CIT (E) v/s. Monarch Educational Society [2017] 79 taxmann.com 43 (Delhi)/[2016] 387 ITR 416 (Delhi)[03-02-2016] - Relevant Para No. 6-8;*
- (iii) *Ranbaxy Laboratories Ltd. v/s. CIT [2011] 12 taxmann.com 74 (Delhi)/[2011] 200 Taxman 242 (Delhi)/[2011] 336 ITR 136 (Delhi)/[2011] 242 CTR 117 (Delhi) [03-06-2011] - Relevant Para No. 18, 19 & 20;*
- (iv) *M/s Vishram Sahakari Awas Samiti Limited. v/s. ITO ITA No:- 1667/DEL/2021, [07.02.2024] - Relevant Para No. 6 & 7.*

6. On the other hand, Ld. Sr.DR for the Revenue submits that the addition has been made on account of undisclosed investment in the acquisition of property u/s 69C of the Act being the

difference between the cost incurred and the cost recorded in the books of accounts and therefore, the reasons recorded are *pari materia* with the addition made and therefore, there was no reason to hold the re-assessment order as bad in law. He thus prayed for the confirmation of the order of lower authorities.

7. Heard the contentions of both parties and perused the material available on record. We find that in the instant case, the assessment was re-opened in terms of notice issued u/s 148 of the Act dated 19.03.2019. Before issue of notice, the reasons so recorded are available at page 19 to 21 of the Paper Book and same are reproduced as under:-

ANNEXURE-AReasons for issue of Notice u/s 148 for the A.Y. 2012-13  
in the case of M/s Sankhwal Realtors Pvt. Ltd.

- |                         |   |
|-------------------------|---|
| 1. Name of the Assessee | : M/s Sankhwal Realtors Pvt. Ltd.   |
| 2. Address              | : 6/30, Shanti Niketan, Near CDR Farm<br>Gurudwara Road, Village Gadaipur,<br>New Delhi-110021. |
| 3. PAN No.              | : AAQCS2784N  |
| 4. Status               | : Company   |
| 5. A.Y.                 | : 2012-13   |

1.Details of assessee:

Assessee filed its ITR on 29.09.2012 for A.Y. 2012-13 declaring loss of Rs.11,859/-. The case was processed u/s 143(1) and was not picked up for scrutiny. Therefore, no scrutiny assessment was made in this case. Name of directors Sh. Amit Sankhwal and Sh. Anil Sankhwal.

2.Details of information & material received:

The ACIT, Central Circle-30, Delhi vide letter F. No. ACIT/CC-30/2018-19 dated 20.03.2019 intimated that a search and survey action conducted on 27.07.2016 and 23.08.2016 in the case of Kartar Singh Group and its associates by Investigation wing, Delhi who are actively involved in real estate business activities in Chattarpur/Ghitorni/Fatehpur Beri/Mehrauli areas of South Delhi.

Amit and Anil Sankhwal are the director of M/s Sankhwal Realtors Pvt. Ltd. As part of search in the case of M/s Kartar Singh Group and its associates, search was conducted at the residence of Amit & Anil Sankhwal. During the search it was found that Amit & Anil Sankhwal had invested heavily in land through various companies which are controlled by them. M/s Sankhwal Realtors Pvt. Ltd. is one such company. During the proceedings, it is found that the Sh. Amit & Anil have unexplained invested heavily in land through various companies which was controlled by them. M/s Sankhwal Realtors Pvt. Ltd. is one such company who had made unexplained investment in purchase of land in Village Dera mandi, New Delhi measuring 13512.56 sq.yds. on 14/10/2011 for a consideration of rs.1,80,00,000/- whereas the market value of this land as given in appraisal report prepared by investigation wing is Rs.39,18,64,240/-. Thus, an amount of Rs.37,38,64,240/- are unexplained investment made by the assessee company in purchase of land in the said deal. This value has been finalized on the basis of average market rate of properties of these areas.

On receipt of information from ACIT, Central Circle-30, Delhi a letter dated 22.03.2019 was sent to the assessee company asking it to furnish certain information alongwith complete set of return for A.Y. 2012-13 but no reply has been received from assessee till date.

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**3. Analysis of information collected/received:**

Considering the above facts, it is obvious that the assessee company has made huge amount of unaccounted investment in land. The return of income for A.Y. 2012-13 has been extracted from the AST. As per its balance sheet, the amount of cost of the land acquired by the assessee is Rs.1.07 crore whereas as per the sale deed the value is Rs.1.80 crore as stated in forgoing paras. Further, it has been noted that many of these transactions are happening through a complex web of companies which are specifically created for holding the property. Further, after development of the farmhouse through cash investments, the shares of these companies are transferred to prospective buyers at face value and in the background, a large amount of unaccounted cash changes hands. This results in acquisition of a property at very nominal rates using the company veil. It is gathered that actual market rate of the property in the area is much higher than circle rates.

**4. Enquiries made by the AO subsequent to information received:**

On receipt of information from the Investigation Wing, the return of the assessee company was extracted from the ITD Module and the facts were verified from the return with reference to the information received. On receipt of information from investigation Wing, a letter dated 22/03/2018 was sent to assessee asking him to furnish certain information by 26/03/2018 in order to verify the facts. But no compliance was made. Therefore, it is clear that the assessee did not want to cooperate in the matter of verification of facts relating to the investment and transactions made in the property.

**5. Findings of AO on the basis of information:**

After analyzing the information received and with the comparison of the ITR for A.Y. 2012-13 and keeping in view the facts mentioned in the report of the Investigation Wing, I am of the considered view that the assessee company has made huge investment of its unaccounted money and during the A.Y. 2012-13 such investment of unexplained and unaccounted money is Rs. 37,38,64,240/-. The case needs to be re-opened to bring the unaccounted money under the purview of tax.

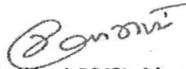
**6. Basis of reason to believe alongwith quantum of income escaped:**

Taking into account above noted facts and information, I have reason to believe that income of Rs.37,38,64,240/- has escaped assessment for A.Y. 2012-13 in the case of M/s Sankhwal Realtors Pvt. Ltd. within the meaning of section 147 of the Act. The case of the assessee is required to be re-opened u/s 147 of I.T.Act

**7. Analysis of legal provisions of section 147/151:**

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In this case, four years but not more than six years have elapsed from the end of the assessment year under consideration and income chargeable to tax which has escaped assessment is more than Rs one lakh, necessary sanction to issue notice u/s 148 of the Act is being obtained separately from the Pr. CIT Delhi-8, as per amended provisions of section 151 of the Act w.e.f. 01.06.2015

  
ITO, Ward-22(3), New Delhi.

Addl. CIT, Range-22, New Delhi.

  
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8. From the perusal of the above, it could be seen that in Point No.2 titled as “details of information and material”, AO referred the information received from ACIT, Circle-30, New Delhi about undisclosed investment made by the assessee company in purchase of land of INR 37,38,64,240/-. Further, in para 3, AO observed that as per the Sale Deed, this land was purchased of INR 1.80 crores and therefore, the reasons to believe was recorded in Para 6

wherein AO has recorded the reasons that income of INR 37,38,64,240/- has escaped assessment and accordingly, notice u/s 148 was issued. It is relevant to state that amount of INR 37,38,64,240/- was the amount alleged as paid in cash in excess of INR 1.80 crores which was recorded in the Sale Deed executed as sale consideration.

9. From the perusal of the assessment order, it is seen that the AO has made the addition of the differential amount between sale consideration of INR 1.80 crores plus registration cost totaling to Rs.1,92,60,000/- and the amount recorded in the books of accounts of 1,07,60,100/- and no addition is made towards any alleged cash payment of INR 37,38,64,240/- for which satisfaction was recorded of escapement of income for which proceedings u/s 148 were initiated.

10. The Hon'ble High Court in ***Ranbaxy Laboratories Ltd. v/s. CIT [2011] 336 ITR 136 (Delhi)*** held that in case where no addition is made on the issues for which the case was re-opened, AO has no jurisdiction to proceed beyond the same.

11. This issue is further supported by the decision of Hon'ble jurisdictional High Court in the case of ***ATS Infrastructure Ltd. v/s. ACIT [2025] 473 ITR 595 (Delhi) [18-07-2024]*** and further in the case of ***CIT (E) v/s. Monarch Educational Society [2016] 387 ITR 416 (Delhi) [03-02-2016]***.

12. Hon'ble Bombay High Court in the case of ***CIT vs Jet Airways (I) Ltd. [2010] 195 taxman 117 (Bombay)*** has also expressed the same view.

13. In view of the above facts and by respectfully following the judgement of the Hon'ble Delhi High Court and Hon'ble High Court of Bombay, we hereby hold that once the addition has not been made on the issue for which the reasons are recorded and re-assessment proceedings are initiated, AO has no jurisdiction to travel beyond such reasons and no addition could be made on other issues which are not forming part of the reasons recorded for re-opening the assessment. Accordingly, we hereby quashed the re-assessment order passed u/s 14/143(3) of the Act. Accordingly, Ground of appeal No.1(b) raised by the assessee is allowed.

14. The remaining Grounds of appeal related to the merits of the additions made, are not adjudicated as we have already allowed the legal ground taken by the assessee.

15. In the result, appeal of the assessee is allowed.

Order pronounced in the open Court on 30.09.2025.

***Sd/-***

**(ANUBHAV SHARMA)  
JUDICIAL MEMBER**

***Sd/-***

**(MANISH AGARWAL)  
ACCOUNTANT MEMBER**

**Date:- 30.09.2025**

*\*Amit Kumar, Sr.P.S\**

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