

**IN THE INCOME TAX APPELLATE TRIBUNAL DELHI  
(DELHI BENCH 'D' NEW DELHI)  
BEFORE SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER  
AND  
SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER**

**ITA No. 932/Del/2025 (A.Y. 2014-15)**

Jain Textile Industries, 38, Milestone, Behrampur Road, Village Khandsa, Gurgaon, Haryana <b>PAN: AABFJ8405F</b>	V s	Assistant Commissioner of Income Tax, Circle-1(1) HSIIDDC Building, 4 <sup>th</sup> floor, Udyog Vihar, Phase-V, Gurgaon
<b>Appellant</b>		<b>Respondent</b>
Assessee by	Sh. Bhupender Jit Kumar, Adv, Sh. Nikhil Sharma, Adv and Sh. Tushar Kalra, Adv	
Revenue by	Sh. Dheeraj Kumar Jain, Sr. DR	
Date of Hearing	03/09/2025	
Date of Pronouncement	24/10/2025	

**ORDER**

**PER YOGESH KUMAR, U.S. JM:**

The present appeal is filed by the Assessee against the order of Ld. Commissioner of Income Tax (Appeals/ National Faceless Appeal Centre ('Ld. CIT(A)/NFAC' for short), New Delhi dated 20/12/2024 for the Assessment Year 2014-15.

2. The grounds of Appeal are as under:-

"1. That on the facts and circumstances of the case and in law, the order dated 20.12.2024 passed by the Learned Commissioner of Income-tax (Appeals), National Faceless Appeal Centre, Delhi (hereinafter referred to as the "CIT(A)") upholding the validity of assumption of jurisdiction under by the Assessing Officer, National Faceless Assessment Centre, Delhi (hereinafter referred to as the "AO") under section 147 of the Income-tax Act, 1961 (the "Act") in the case of the

*Appellant for Assessment Year (hereinafter referred to as "A.Y.") 2014-15 is without judicious appreciation of the facts and law and is therefore, erroneous and bad in law.*

*2. That on the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in upholding the validity of assumption of jurisdiction by the AO under section 147 of the Act, because inspite of specific request made by the Appellant, the AO did not provide the copy of actual reasons nor provided the copy of any fresh tangible material forming basis of formation of belief that income had escaped assessment.*

*3. That on the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in upholding the validity of assumption of jurisdiction by the AO under section 147 of the Act, because the scrutiny assessment in the case of the Appellant was earlier completed on 30.09.2016 under section 143(3) of the Act and there was no fresh tangible material that came up after the completion of original assessment.*

*4. That on the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in upholding the validity of assumption of jurisdiction by the AO under section 147 of the Act, because the reopening in the case of the Appellant has been made without proper application of mind.*

*5. That on the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in upholding the validity of assumption of jurisdiction by the AO under section 147 of the Act, because there is no independent formation of belief by the AO and the reopening has been made merely on borrowed satisfaction.*

*6. That on the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in upholding the validity of assumption of jurisdiction by the AO under section 147 of the Act, because the reopening in the case of the Appellant is based on a mere change of opinion.*

*7. That on the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in upholding the validity of assumption of jurisdiction by the AO under section 147 of the Act, because the scrutiny assessment in the case of the Appellant was earlier completed on 06.01.2016 under section 143(3) of the Act*

*and the reopening is made after expiry of four years from the end of the relevant assessment year even when there is no failure on the part of the Appellant in disclosing fully and truly all material facts necessary for making assessment in its case.*

*8. That on the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in restoring the matter back to the AO under section 251(1)(a) of the Act even when the AO has not made any best judgement assessment under section 144 of the Act in the case of the Appellant.*

*9. That on the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in confirming the addition of Rs. 1,27,34,279/- made by the AO on account of disallowance of expenses for purchase of consumables for boiler, plant and machinery, etc. by treating these consumables as accessories and by treating these expenses as being in the nature of capital expenditure.*

*10. The Appellant craves leave to add, amend, delete or alter any of the grounds of appeal.”*

3. Brief facts of the case as mentioned in the order of the Ld. CIT(A)

are as under:-

*“M/s. Jain Textile Industries (the 'Appellant') is a partnership firm engaged in the business of a processing house carrying on dyeing and printing of cotton cloth. The Appellant is being regularly assessed to income-tax with the Deputy Commissioner of Income-tax, Circle-1(1), Gurgaon. Return declaring Nil income for the Assessment Year ('A.Y.') 2014- 15 after adjustment of brought forward losses was efiled by the Appellant on 29.09.2014. The return was processed under section 143(1) of the Income-tax Act, 1961 (the 'Act') on 08.07.2015. Thereafter, the case was selected for scrutiny and the assessment was completed under section 143(3) of the Act on 30.09.2016 after making disallowances of Rs. 2,63,642/-.*

*2. Later, notice under section 148 of the Act was issued for A.Y. 2014-15 on 28.03.2021 in response to which the Appellant filed return of income on 27.04.2021 vide acknowledgement no. 345444901270421. This was intimated vide response dated 27.04.2021 duly uploaded on the e-filing portal. Thereafter, the Appellant requested for providing reasons recorded for reopening the assessment. The reasons in the form of letter bearing DIN & Letter No. ITBA/ AST/ F/17/2021-22/1035150715(1) dated 27.08.2021 were provided to the Appellant through e-filing portal.*

3. Thereafter, notice under section 142(1) was issued by the AO on 29.11.2021 requiring the Appellant to file the basic details, financial statements including the tax audit report. Vide subsequent notice dated 16.12.2021 followed by reminder notice dated 23.12.2021 issued under section 142(1) of the Act, the AO asked the Appellant to justify on interest income of Rs. 5,17,281/- and claim of purchases of accessories amounting to Rs. 1,27,34,279/- debited to Profit & Loss account.

4. In response to the above notices, vide letter dated 28.12.2021, the Appellant raised objections against assumption of jurisdiction under section 147 in its case. Simultaneously, the Appellant also furnished the basic details, computation of income, financial statements and tax audit report as required by the AO. The objections against reopening of assessment were further supplemented by the Appellant through letter dated 12.01.2022.

5. The objections raised by the Appellant were disposed of by the AO on 16.03.2022 in a general manner without dealing with the specific objections. Thereafter, show cause notice was issued on 23.03.2022 requiring the Appellant to explain why addition of Rs. 1,27,34,279/- may not be made to the taxable income of the Appellant on account of purchase of accessories to capital assets debited to the Profit & Loss account. In response, the Appellant filed reply dated 25.03.2022 explaining that these 'accessories' were in the nature of consumables and the Appellant also enclosed copies of ledger accounts in respect of these expenses. Copies of sample invoices were also enclosed. It could be easily observed from these ledger accounts and invoices that the impugned 'accessories' were low priced items necessary for consumption in boiler and plant and these were in the nature of recurring maintenance expenses to keep the plant working. Further, the whole explanation was once again given through oral submissions before the AO in video conferencing held on 28.03.2022.

6. However, the AO passed assessment order under section 147 r.w.s. 144 and 144B of the Act on 29.03.2022. Even though the Appellant has complied with all the terms of notices issued by the AO and had furnished complete information and details, yet the AO completed the assessment under section 144 of the Act. By this order, the AO assessed the income of the Appellant at Rs. 1,58,72,511/- after making an addition of Rs. 1,27,34,279/- on account of disallowance of claim of expenses on purchase of 'accessories' to capital assets debited to the Profit & Loss account.

4. As against the assessment order dated 29/03/2022, Assessee preferred an Appeal before the Ld. CIT (A). The Ld. CIT (A) vide order

dated 20/12/2024, dismissed the Appeal filed by the Assessee. Aggrieved by the order of the Ld. CIT (A), Assessee preferred the present Appeal.

5. Ground No. 1 is general in nature, which requires no adjudication.

6. In Ground No. 2 to 7, the Assessee challenged the validity of reopening of the assessment u/s 147 of the Act. The Ld. Counsel for the Assessee submitted that the Ld. CIT(A) committed error in upholding the validity of assumption of jurisdiction by the A.O. u/s 147 of the Act. Further submitted that A.O had no fresh tangible material to support reasons for reassessment and the A.O. has not applied his mind and reasons have been recorded based on the borrowed satisfaction which is nothing but merely change of opinion of the A.O.

7. Per contra, the ld. Department's Representative submitted that the issue taken up for reassessment where never examined by the A.O. in the earlier assessment, therefore, it cannot be construed that the reassessment proceedings initiated by the Assessing Officer is mere a change of opinion, thus relying on the orders of the Lower Authorities, sought for dismissal of Grounds No. 2 to 7.

8. We have heard both the parties and perused the material available on record. As could be seen from the assessment order, the Ld. A.O. has specifically mentioned that the Assessee has not fully and truly disclosed

the material facts necessary for his assessment for year under consideration, therefore, justified in invoking the provisions of Section 147 of the Act. The relevant observation of the A.O. is reproduced as under:-

*“the assessee has not fully and truly disclosed the material facts necessary for his assessment for the year under consideration as the assessee was required to add interest income of Rs. 5,17,281/- in his income, but the same was not considered in computation of total income. Also, during the previous year assessee purchased accessories to its capital assets amounting Rs. 1,27,34,279/- and debited these to profit and loss account. It is evident from the above facts that the assessee had not truly and fully disclosed material facts necessary for his assessment for the year under consideration thereby necessitating reopening u/s 147 of the Act. It is true that the assessee has submitted information and documents along with return of income where various information/ material were disclosed. However, the requisite full and true disclosure of all material facts necessary for assessment has not been made as noted above. It is pertinent to mention here that even though the assessee has produced information / documents or other evidence as mentioned above, the requisite material facts as noted above in the reasons for reopening were embedded in such a manner that material evidence could not be discovered by the then AO and could have been discovered with due diligence, accordingly attracting provisions of Explanation 1 of section 147 of the Act.*

**Explanation 1 of section 147 of the Act reads as under :-**

*“Explanation 1.—For the purposes of this section, the following shall also be deemed to be cases where income chargeable to tax has escaped assessment, namely:—*

- (a) where income chargeable to tax has been underassessed; or*
- (b) where such income has been assessed at too low a rate; or*
- (c) where such income has been made the subject of excessive relief under this Act or under the Indian Income-tax Act, 1922 (11 of 1922); or*
- (d) where excessive loss or depreciation allowance has been computed.*

*It is evident from the above discussion that in this case, the issues under consideration were never examined by the AO during the course of regular assessment. This fact is corroborated from the contents of notices issued by the AO u/s 143(2)/ 142(1) and order sheet entries dated recorded during the 143(3) proceedings. It is important to highlight here that material facts relevant for the assessment on the issue under*

*consideration were not filed during the course of assessment proceeding and the same may be embedded in submitted information in such a manner that it would require due diligence by the AO to extract these information. For afore-stated reasons, it is not a case of change of opinion by the AO.”*

*As seen above, the issues taken up for the reassessment were never examined by the AO in the earlier assessment, therefore the appellant's contention that it is merely a change of opinion is not tenable. Therefore, the said grounds of the appeal are not sustainable so far as the validity of the assessment proceedings is concerned.*

9. It is evident that the issues which were taken up for reassessment were never examined by the A.O. in the earlier assessment proceedings initiated u/s 143(3) of the Act. Therefore, there is no such bar on the A.O. to proceed u/s 147 of the Act in reopening the assessment and we find no merits in the contention of the Assessee's Representative that the reassessment proceedings is merely a 'change of opinion'. In view of the above, finding no merits in Ground No. 2 to 7 of the Assessee, the Ground No. 2 to 7 of the Assessee are dismissed.

10. In Ground No. 8 the Assessee has challenged action of the Ld. CIT(A) in remanding the matter to the file of A.O. for framing de-novo assessment.

11. On perusal of the re-assessment order dated 29/03/2022 passed u/s 147 r.w. Section 144 of the Act, it is found that though the Assessee has filed reply, the assessment has been framed without assigning any reasons as the assessee has not complied the notices. The Assessee

himself pleaded before the Ld. CIT(A) that due to Assessee's illness and medical condition, the notices could not be complied during the assessment proceedings. The Ld. CIT(A) has taken note of the said fact and restored the matter to the file of the A.O. for framing the assessment afresh. In our considered opinion, the Ld. CIT(A) has rightly remanded the matter to the file of the A.O. by exercising the power conferred u/s 251 (1)(a) of the Act, which requires no interference at our hands. Accordingly, the Ground No. 8 of the Assessee is dismissed.

12. In Ground No. 9 of the Appeal, the Assessee challenged the addition of Rs. 1,27,34,279/- made by the A.O. Since, we have upheld the action of the Ld. CIT(A) in remanding the matter to the file of the A.O. while dismissing Ground No. 8 of the Assessee and considering the fact that the addition has already been set aside and remanded to the file of the A.O. for framing de-novo assessment, in the absence of proper materials on record, the Ground No.9 before us requires no adjudication by the Tribunal. Accordingly, Ground No. 9 of the Assessee is dismissed.

13. In Ground No. 10 of the Assessee no grievance has been made out by the Assessee, hence, Ground No. 10 is dismissed.

14. In the result, Appeal of the Assessee is dismissed as devoid of merit.

**Order pronounced in the open court on 24<sup>th</sup> October, 2025**

Sd/-

Sd/-

**(S. RIFAUH RAHMAN)**  
**ACCOUNTANT MEMBER**

**(YOGESH KUMAR U.S.)**  
**JUDICIAL MEMBER**

Date:- 24 .10.2025

R.N, Sr.P.S\*

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT, NEW DELHI