

**IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'A' BENCH,
NEW DELHI**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER, AND
SHRI NAVEEN CHANDRA, ACCOUNTANT MEMBER**

ITA No. 1466/DEL/2024 [A.Y 2021-22]

Bhawna Garg
B-85, Radhey Shyam Park Ext
Krishna Nagar, New Delhi

Vs.

The Dy. C.I.T
Central Circle-31
New Delhi

PAN: AGRPG 2200 K

(Appellant)

(Respondent)

Assessee By : Shri Ravi Pratap Mall, Adv

Department By : Shri Jitender Singh, CIT-DR

Date of Hearing : 26.08.2025

Date of Pronouncement : 26.08.2025

ORDER

PER NAVEEN CHANDRA, AM :-

This appeal by the assessee is directed against the order of the CIT(A)- 30, dated 08.02.2024 pertaining to A.Y 2021-22.

2. The grounds raised by the assessee read as under:

"1. That, the Learned Commissioner of Income Tax (Appeals)-30, New Delhi has grossly erred both in law as well as on facts of the case, in upholding the Order of Assessment passed on December 29th 2022, issued under section 143(3) of the Income Tax Act, 1961 ("the Act"), vide the impugned Order passed u/s 250 of the Act, on February 08th 2024.

2. That, the Learned Commissioner of Income Tax (Appeals)-30, New Delhi has grossly erred both in law as well as on facts of the case, by upholding the incorrect additions made by the Learned Assessing Officer, amounting to a massive sum of INR 40,69,000/-. The Learned Assessing Officer has stated that, during the year under consideration, the Appellant had made unaccounted payments to the tune of INR 40,69,000/-, while purchasing a property situated at E-137, Upper Ground Floor, Preet Vihar, Delhi-110092. Most importantly, it has been incorrectly stated that, the disputed payments were made to a person Mr. Parveen Kumar Jain. Accordingly, the Learned Assessing Officer has raised an incorrect demand of INR 38,45,115/-, in the hands of Assessee. In this regard, it is most relevant to mention that, the concerned property was purchased from M/s RPG Nirman Pvt. Ltd. and Shri. Keshav Chawla for a total consideration of INR 96,00,000/-, vide a registered sale deed dated August 27th 2020.

3. That, the predominant evidence in the present case is merely a piece of paper (a form of digital image) recovered from the mobile phone of an unknown person i.e. Mr. Parveen Kumar Jain. It is relevant to mention that, neither the Appellant had signed the said piece of paper nor the Appellant had inscribed the contents

mentioned on that sheet. Thereby, the addition was made purely on the basis of suspicion and unfounded presumptions.

4. That, the Learned Assessing Officer and the Learned Commissioner of Income Tax (Appeals)-30, New Delhi had also relied upon an Agreement to Sell, as mentioned within the Assessment Order and the Order of CIT-(Appeals). However, during the entire course of Assessment Proceedings, the alleged Agreement to Sell was not disclosed to the Appellant nor the aforesaid Agreement to Sell was revealed in the Show Cause Notice. Moreover, the alleged Agreement to Sell was terribly obscure and indefinite, as per the Assessment Order itself, thereby the disputed agreement cannot be admitted as a tangible/incriminating material under normal circumstances, since it is extremely difficult to pursue the contents of the alleged document.

5. That, the Appellant holds no relation with Mr. Praveen Kumar Jain nor with Mr. Saurav Gupta. It is relevant to mention that, the witness from the side of the Appellant was Mr. Ashish Garg and subsequently, the Appellant is unacquainted to the witness from the side of Sellers, as the Appellant only holds association with M/s RPG Nirman Pvt. Ltd. and Shri. Keshav Chawla. Henceforth, the Appellant cannot be held liable for the acts of a third person(s).

6. That, the Learned Commissioner of Income Tax (Appeals)-30, has failed to grant a proper and sufficient opportunity to the Appellant of being heard. The Order passed by the Learned Commissioner of Income Tax (Appeals)-30 was passed against the principle of natural justice. The Learned Assessing Officer and the

Learned Commissioner of Income Tax (Appeals)-30 has erred in not following the judgments delivered by various courts in favor of the Appellant.

7. That, the Learned Commissioner of Income Tax (Appeals)-30 has erred in law in upholding the Order of Assessment in respect of charging of Interest under Section 234B and also the initiation of Penalty under section 271AAC(1), failing to appreciate that, on the facts and circumstances of case, the addition made itself is bad in law as such, charging of interest is and initiation of penalty is unwarranted in law.

8 That, the Assessment Order passed on December 29th 2022, by the Learned Assessing Officer was sanctioned without a DIN (Document Identification Number). Thereby, the aforesaid Order is in violation of guidelines prescribed by the Income Tax Act, 1961 and CBDT (Central Board of Direct Taxes). Moreover, neither the Notice u/s 156 of the Income Tax Act, 1961 nor the Computation Sheet had an inscribed DIN within itself.

9. That, during the course of the Assessment Proceedings and the Appellate Proceedings, the Appellant had furnished sale instances of nearby- properties, situated around Preet Vihar and its vicinity, thereby the Learned Assessing Officer and the Learned Commissioner of Income Tax (Appeals)-30, was bound to refer the matter, before the office of DVO (Departmental Valuation Officer), to ascertain the actual consideration of the property, in case of uncertainties with respect to the valuation of property, as no cash or cash trail was found against the Appellant.

10. That, the Appellant craves to leave add, alter, and modify any other ground of appeal at the time of hearing.”

3. In addition to the above, the assessee has raised the following additional ground of appeal:

"4. That since the satisfaction note was allegedly recorded in the FY 2022-23 relevant to the assessment year 2023-24, as such, present assessment year 2021-22 falls within the block period of six years, and since for the instant assessment year 2021-22, no notice u/s 153C of the Act was issued to the appellant, as such, assessment framed u/s 143(3) of the Act is without jurisdiction and unsustainable in law."

4. In support of the additional ground, the ld. counsel for the assessee relied upon the decision of the Hon'ble Supreme Court in the case of *National Thermal Power Corporation Limited Vs. CIT* 229 ITR 383 and *CIT Vs. Varas International* 284 ITR 80 and judgment of the Hon'ble Punjab and Haryana High Court in the case of *VMT Spinning Co.Ltd* 389 ITR 326 to contend that a question of law can be raised even if not taken before the lower authority.

5. Having heard the ld. counsel for the assessee, we admit the additional ground of appeal being legal in nature.

6. Brief facts of the assessee case are that the assessee is an individual, having income from Business & Profession and other sources. The assessee filed return of income u/s 139(1) of the Income Tax Act, 1961 (hereinafter referred to as "the Act") dated 25.10.2021 at total income of Rs. 4,86,400/-. The case was selected for scrutiny assessment by issuance of notice u/s 143(2) of the Act dated 30.06.2022 by Ward-58(1), Delhi and later the case was transferred to DCIT Cen Cir 31, New Delhi vide order u/s 127 of the Act dated 27.09.2022.

7. The background of the case is that a search u/s 132 of Act was conducted on 06.01.2021 in Hans Group of cases and various papers/documents/digital data and incriminating material were found and seized from the business and residential premises of the individuals and business entities of Hans group covered in the search operation. It was found that the information contained in the seized material, in the form of image in the seized mobile phone of Shri Parveen Kumar Jain, relates to the assessee, Bhawna Garg (person other than the searched person). The information related to sale of property at E-137, Upper Ground Floor, Preet Vihar, Delhi, having signed receipts of consideration of Rs. 1,90,69,000/- till 16/07/2020 whereas the registered sale deed of the property, showed that the property was purchased by the assessee

& her husband and it was registered at consideration of Rs. 96,00,000/- only.

8. Accordingly, a Satisfaction Note has been drawn on 09.09.2022 by the Assessing Officer of searched person and the relevant seized documents/data were handed over to the Assessing Officer having jurisdiction over Smt. Bhawna Garg. The Satisfaction Note has been drawn by the Assessing Officer of the person other than searched person, on 30.09.2022 to initiate proceedings u/s 153C r.w.s 153A of the Act in the case of Smt. Bhawna Garg for Assessment Years 2015-16 to 2020-21 only.

9. In the above factual matrix, the ld counsel raised the additional ground contending the framing of assessment u/s 143(3) for AY 2021-22 as being without jurisdiction. The ld AR vehemently contested that since the satisfaction note was recorded in the FY 2022-23 relevant to the assessment year 2023-24, as such, present assessment year 2021-22 falls within the block period of six years. It is the say of ld AR that since for the instant assessment year 2021-22, no notice u/s 153C of the Act was issued to the assessee therefore, assessment framed u/s 143(3) of the Act is without jurisdiction and unsustainable in law.

10. Per contra, the ld DR relied on the orders of authorities below.

11. We have heard the rival submissions and have perused the relevant material on record. We find that a search u/s 132 of Act was conducted on 06.01.2021 in Hans Group of cases incriminating material pertaining to the assessee were found and seized. Accordingly, a Satisfaction Note was drawn on 09.09.2022 by the Assessing Officer of searched person and the relevant seized documents/data were handed over to the Assessing Officer having jurisdiction over Smt. Bhawna Garg, the assessee. The Assessing Officer of the assessee drew a Satisfaction Note on 30.09.2022 to initiate proceedings u/s 153C r.w.s 153A of the Act in the case of Smt. Bhawna Garg for Assessment Years 2015-16 to 2020-21 only.

12. We note that the satisfaction note in the case of the assessee was recorded on 30.09.2022 i.e., in the FY 2022-23, the relevant year of search in the case of the assessee would be AY 2023-24. As such, the instant year in consideration i.e., A.Y 2021-22 would fall within the block period of six years, where the initiation of assessment/reassessment proceeding requires issuance of notice u/s 153C. We find that it is an uncontroverted fact that for the instant A.Y 2021-22, no notice u/s 153C of the Act was issued to the assessee. In such factual matrix, we are of the considered view that the assessment framed u/s 143(3) of the Act is without jurisdiction and unsustainable in law. Our view is fortified by

the decision of the Hon'ble Supreme Court in the case of *CIT Vs. Jasjit Singh* 458 ITR 437(SC) and the Hon'ble Delhi High Court in the case of *Ojjus Medicare Pvt Ltd & Others* [2024] 161 taxmann.com 160 (Delhi) order dated 03.04.2024. Following the judicial precedence, we hold that the impugned assessment framed u/s 143(3) is legally invalid and the same is accordingly quashed. The additional ground is allowed.

12. Since we have quashed the assessment order, we do not find it necessary to dwell into the merits of the case.

13. In the result, appeal of assessee in ITA No. 1466/DEL/2024 is allowed.

Order pronounced in open court on 26.08.2025.

Sd/-

[SATBEER SINGH GODARA]
JUDICIAL MEMBER

Sd/-

[NAVEEN CHANDRA]
ACCOUNTANT MEMBER

Dated : 24th October, 2025.

VL/

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,
ITAT, New Delhi

SI No.	PARTICULARS	DATES
1.	<i>Date of dictation of Tribunal Order</i>	
2.	<i>Date on which the typed draft order is placed before the Dictating Member</i>	
3.	<i>Date on which the typed draft order is placed before the other Member [in case of DB]</i>	
4.	<i>Date on which the approved draft order comes to the Sr. P.S./P.S.</i>	
5.	<i>Date on which the fair Order is placed before the Dictating Member for sign</i>	
6.	<i>Date on which the fair order is placed before the other Member for sign [in case of DB]</i>	
7.	<i>Date on which the Order comes back to the Sr. P.S./P.S for uploading on ITAT website</i>	
8.	<i>Date of uploading, inf not, reason for not uploading</i>	
9.	<i>Date on which the file goes to the Bench Clerk</i>	
10.	<i>Date on which the file goes for Xerox</i>	
11.	<i>Date on which the file goes for endorsement</i>	
12.	<i>The date on which the file goes to the Superintendent for checking</i>	
13.	<i>Date on which the file goes to the Assistant Registrar for signature on the order</i>	
14.	<i>Date on which the file goes to the dispatch section for dispatch the Tribunal order</i>	
15.	<i>Date of Dispatch of the Order</i>	
16.	<i>Date on which the file goes to the Record Room after dispatch the order</i>	