

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES : A : NEW DELHI

BEFORE SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER
AND
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER

ITA No.5721/Del/2024
Assessment Year : 2011-12

Ram Kishan,
H.No.124, 1st Floor,
Kala Vihar CGHS Ltd.,
Mayur Vihar Ph.I,
Delhi – 110 091.

Vs. ITO,
Ward-60(5),
New Delhi.

PAN: AHAPC1442P

(Appellant)

(Respondent)

Assessee by	: Shri Ved Jain, Advocate; Ms Uma Upadyay, CA; & Shri Aditya Garg, AR
Revenue by	: Shri Ajay Kumar Arora, Sr. DR
Date of Hearing	: 06.11.2025
Date of Pronouncement	: 14.11.2025

ORDER

PER ANUBHAV SHARMA, JM:

This is an appeal preferred by the Assessee against the order dated 24.10.2024 of the Commissioner of Income-tax (Appeals), NFAC, Delhi (hereinafter referred as Ld. First Appellate Authority or in short Ld. 'FAA') in appeal No.CIT(A), Delhi-19/10395/2017-18 arising out of the appeal before it against the order dated 23.12.2017 passed u/s 147/144 of the Income Tax Act,

1961 (hereinafter referred as 'the Act') by the Income Tax Officer, Ward 60(5), Delhi (hereinafter referred to as the Ld. AO).

2. Heard and perused the records. We find that vide Ground No. 3 to 12, the assessee has challenged the reopening of the assessment on the following issues:-

A. The reopening is barred by limitation as being beyond 4 years, is covered by Proviso to Section 147 of the Act.

B. Reasons recorded are contrary to facts thus a clear case of non-application of mind.

C. No Notice u/s 148 of the Act for the AY 2011-12 being the assessment year under consideration.

D. Service of Notice u/s 148 is must before completion of reassessment

3. Now the relevant facts are original return was filed on 31.3.2012 and was processed u/s 143(1) of the Act. Then the case of assessee was reopened vide notice dated 28.03.2013 on the ground that interest received on compensation is chargeable to tax. Assessment order passed u/s 147/143(3) of the Act on 26.3.2014 and assessee succeeded in appeal vide order dated 20.12.2016. Now again Recording of "Reasons to Believe", Notice u/s 148 of the Act was issued for incorrect A.Y. (2010-11) and Reassessment order passed u/s 147 of the Act on 13.12.2017. In the present case, the assessee has filed the return on 31.03.2012 and thereafter, that assessment was reopened on 28.03.2013 and assessment order under section 143(3) was passed on 26.03.2014. Accordingly,

proviso to Section 147 of the Act was applicable to this and it was incumbent on Id. AO to show in the reopening reasons that income chargeable to tax has escaped assessment for such assessment year by reason of the failure on the part of the assessee to make a return under section 139 or in response to a notice issued under sub-section (1) of section 142 or section 148 or to disclose fully and truly all material facts necessary for his assessment, for that assessment year. However, as per the copy of Annexure A, being the reasons recorded u/s 147 of the Act, there are no such averments in the reasons. In the present case, the assessee has filed the return of income on 31.03.2012 declaring complete particulars and the assessment was reopened only on the ground of compensation received in respect of acquisition of land has escaped assessment. Thus, during reassessment proceedings under section 147/143(3) of the Act all material facts were available on record. The Id. AO has completed the assessment making addition only on this ground as it is evident from the assessment order. Accordingly, it is not a case where there was any failure on the part of the assessee to disclose fully and truly all material facts necessary for the assessment. Mere a bald allegation in the reasons recorded will not meet the statutory requirement. The AO has to demonstrate such failure in the reason recorded. In the present case, the facts were so clear and accordingly the law of limitation as per the proviso of section 147 of the Act will be fully applicable. Which is not the case here, so the reasons are defective and vitiate the reopening.

4. Then, Id. Counsel has demonstrated on the basis of copy of the Performa for recording the reasons, and seeking approval, that Id. AO as well as the Approving Authority has not applied their mind and the assessment has been reopened blindly. It comes up that item No. 8, in this form, mentions in query as to whether the assessment is proposed to be made for the first time, the AO has clearly stated "Yes" by ignoring the fact that the assessment has already been completed vide order dated 26.03.2014. Further, not only that in respect to question whether any return voluntarily has been filed, the AO has stated "NO" by ignoring the fact that the return voluntarily was filed on 31.03.2012. It was also pointed out that in the reasons where there is no reference to the assessee having filed the original return and the assessment earlier having been completed under section 143(3) of the Act.

5. Thus based on aforesaid discussion, we are inclined to allow the ground no. 5, 7 and 10. The remaining grounds become superfluous and academic so need no separate adjudication. Thus the appeal is allowed. Impugned assessment order is quashed.

Order pronounced in the open court on 14.11.2025.

Sd/-

(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Dated: 14th November, 2025.

dk

Sd/-

(ANUBHAV SHARMA)
JUDICIAL MEMBER

Copy forwarded to:

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

Asstt. Registrar, ITAT, New Delhi