

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

BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT

AND

SHRI KRINWANT SAHAY, ACCOUNTANT MEMBER

ITA No.1299/Del/2022

[Assessment Year: 2012-13]

Shujaat Hussain, E-93, Alpha 1, Greater Noida, Uttar Pradesh-201301	Vs.	PCIT, Noida, Uttar Pradesh-201301
PAN :AJNPH1327D		
(Appellant)		(Respondent)

Appellant by	Advocate Abhimanyu Jhamba, Advocate Thonpinao Thangal and Advocate Ayush Srivastav
Respondent by	Shri Mahesh Kumar, CIT(DR)

Date of Hearing	10.11.2025
Date of Pronouncement	10.11.2025

ORDER

PER KRINWANT SAHAY, AM:

Appeal in this case has been filed against the order dated 20.03.2022 passed by the Id. PCIT, Noida, u/s 263 of the Income Tax Act, 1961 (hereinafter 'the Act') pertaining to Assessment Year 2012-13.

2. The assessee has raised following grounds of appeal:-

1. *That on the facts and circumstances of the case and in law, the impugned order has been passed by the Ld. Commissioner of Income Tax u/s 263 of the Income Tax Act, 1961 in flagrant violation of the principle of natural justice.*

2. *That on the facts and circumstances of the case and in law, the impugned order u/s 263 of the Act deserves to be*

quashed and set aside since the show cause notices were never served upon the Appellant.

3. That on the facts and circumstances of the case and in law, the Ld. Commissioner of Income Tax erred in wrongfully invoking the provisions of section 263 of the Income Tax Act.

4. That on the facts and circumstances of the case and in law, the order passed by the Ld. CIT u/s 263 is bad in law in as much as it does not fulfil the jurisdictional conditions envisaged u/s 263 of the Act or the Explanations appended thereto.

5. That on the facts and circumstances of the case and in law, the order passed by the Ld. CIT u/s 263 is bad in law since: -

a) It was not a case where no enquiry was made by the Ld. Assessing Officer. On the contrary, the Assessment Order was passed after making detailed enquiries.

b) That proceedings u/s 263 cannot be initiated on a mere change of opinion.

c) Section 263 of the Income Tax Act, 1961 cannot be invoked for making fishing and roving enquiries or for re-verification.

d) That the Ld. CIT failed to appreciate the concluded assessments made by the Ld. Assessing Officer in the case of Sharaf Mohd and EKO Aspire Foundation.

6. That on the facts and circumstances of the case and in law, the order of the Ld. CIT u/s 263 does not sustain even on merits.

3. The main ground of the appeal is that the assessee did not received any show-cause notice dated 21.02.2022 and 09.03.2022 as mentioned by the ld. PCIT in the body of the order u/s 263 of the Act. Therefore, the assessee could not file its reply/written submissions on the notice issued. The ld. Counsel for the assessee argued that keeping in view of natural justice, the matter may be remanded back to the file of ld. PCIT for fresh consideration after

giving adequate opportunity of being heard and for filing of written submission as required under law.

4. Per Contra, the ld. DR relied upon the orders of the authorities below.

5. We have considered the findings given by ld. PCIT in the order passed u/s 263 of the Act and we find that the Ld. PCIT has passed the order on the basis of material available on record without hearing the assessee, it was because, the assessee could not receive the notices issued by the Ld. PCIT.

6. We are of the considered view that keeping in view of natural justice, the assessee should be given adequate opportunity of being heard and for filing of written submission before ld. PCIT, which is lacking in this case. Therefore, as requested by the ld. Counsel for the assessee, we are inclined to remand this case back to the file of ld. PCIT for deciding afresh after giving adequate opportunity to the assessee of being heard as required under the law.

7. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 10th November, 2025.

Sd/-
[MAHAVIR SINGH]
VICE PRESIDENT
Dated 10.11.2025

Sd/-
[KRINWANT SAHAYA]
ACCOUNTANT MEMBER

Shekhar

Copy forwarded to:

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

Asst. Registrar,
ITAT, New Delhi,