

**IN THE INCOME TAX APPELLATE TRIBUNAL DELHI
(DELHI BENCH 'B' NEW DELHI)**

**BEFORE SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER
AND
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

**ITA No.4807/Del/2024
(Assessment Year: 2011-12)**

Rakesh Chopra, J-369, New Rajinder Nagar Delhi-110060	Vs.	Income Tax Officer, Ward-50(3), Room No.1409, E- 2, Block, Civic Centre, Delhi-110060
PAN No:-ADDPC4553C		
Appellant		Respondent
Assessee by	Ms. Manju Goel, CA & Shri B.L. Gupta, CA	
Revenue by	Shri Rajesh Kumar Dhanesta, Sr. DR	
Date of Hearing	20.11.2025	
Date of Pronouncement	26 .11.2025	

ORDER

PER YOGESH KUMAR, U.S. JM:

The present appeal is filed by the assessee against the order of the ld. Commissioner of Income Tax(Appeals)/National Faceless Appeal Centre, New Delhi (in short 'Ld. CIT(A)') dated 05.09.2024 for the Assessment Year 2011-12.

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

"1. That in view of the facts and circumstances of the case, the Ld. CIT (A) has erred by confirming the addition ie of Rs. 50,50,000/- without appreciating the facts of the case, the order of The Ld. CIT(A) is bad in law and against the principles of equity and justice.

2. That on the facts and circumstances of the case and in law the Ld CIT(A) has erred by stating that the appellant cannot question the jurisdiction of AO as per the provisions of section 124(3)(a) of The Income tax Act,1961 relying on the Hon'ble Supreme court decision in the case of DCIT vs Kalinga Institute of Industrial Technology (2023) 151 taxmann.com 434 (SC) where as the said case is not applicable to the assessee and the case laws cited by the assessee have not been considered.

3. *That on the facts and circumstances of the case, neither statutory notice u/s 143(2) nor notice u/s 142(1) of The Income Tax Act, 1961 has been issued after the assessee filed and verified the return of income on 19/11/2028 in response to notice us 148, which is bad in law so the assessment order passed u/s 147/143(3) and 147/144 of The Income Tax Act, 1961 is void ab-initio.*

4. *That on the facts and circumstances of the case and in law the Ld CIT(A) has erred by not considering the submissions and case laws cited by the assessee.*

5. *That on the facts and circumstances of the case and in law the Ld. CIT(A) has erred by not considering that the assessee had not taken any benefit till date from the investment of Rs. 50,50,000/- in Milestone Capital advisors Ltd which was added as unexplained income u/s 69.*

6. *In view of the facts and circumstances of the case the appellant prays that the addition be deleted or any other order which this hon'ble court deems fit and proper be passed in favour of the assessee."*

3. Brief facts of the case are that, the assessee filed return of income declaring Rs.2,65,566/-. The case was reopened u/s 147 of the Income Tax Act, 1961 (in short 'the Act'). The assessee filed return of income in response to notice u/s 148 dated 30.10.2018. The assessment order came to be passed u/s 143(3)/147 of the Act on 12.12.2018 by making an addition of Rs.50,50,000/- u/s 69 of the Act on account of unexplained investment.

4. Aggrieved with the assessment order dated 12.12.2018, Assessee preferred appeal before the Ld. CIT(A). The ld. CIT(A) vide order dated 05.09.2024, dismissed the appeal of the assessee. As against the order of the Ld. CIT(A), the Assessee preferred the present Appeal.

5. The Ld. Counsel for the assessee vehemently submitted that the assessment order has been framed without looking into the revised

return dated 30/10/2018 on the ground that e-verification of the return still pending, however, the returned dated 30/10/2018 has been duly e-verified. To substantiate the said claim, Assessee produced the income tax return dated 30/10/2018 along with the affidavit of the Assessee. Thus, the Ld. Assessee's Representative sought for allowing the Appeal.

6. Per contra, the Ld. Department's Representative submitted that the genuineness of the copy of the e-return has to be verified and apart from the same submitted that the Grounds of appeal are devoid of merit, therefore, sought for dismissal of the Appeal.

7. We have heard both the parties and perused the material available on record. As could be seen from the assessment order, the A.O. has not considered the revised return dated 30/10/2018 filed by the Assessee on the ground that 'e-verification of the said return is still pending'. The Ld. Assessee's Representative produced the copy of the revised return dated 30/10/2018 which is apparently e-verified through Adhar OTP. Apart from the same, the Assessee has also filed an affidavit contending that the Assessee filed return u/s 148 of the Act, which has been duly verified and also certified that the copy of the return as genuine. The affidavit and the copy of the e-return dated 30/10/2018 has been taken into account. Considering the fact that the assessment order has been framed on the erroneous pretext that

the revised return so filed dated 30/10/2018 was not e-verified and the assessment order has been passed without taking into consideration of revised return dated 30/10/2018. Moreover no statutory notice u/s 143(2) of the Act was issued for assuming jurisdiction to frame the assessment. Thus, we find no reason to sustain the assessment order and the order of the Ld. CIT(A). Accordingly, we allow the Grounds of Appeal and delete the addition.

8. In the result, Appeal of the Assessee is allowed.

Order pronounced in the open court on 26th November, 2025.

Sd/-
(MANISH AGARWAL)
ACCOUNTANT MEMBER

Date:- 26.11.2025

Shekhar / R.N.S.R. PS

Copy forwarded to:

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

Sd/-
(YOGESH KUMAR U.S.)
JUDICIAL MEMBER

ASSISTANT REGISTRAR
ITAT, NEW DELHI

