

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

**BEFORE SHRI MAHAVIR SINGH, HON'BLE VICE-PRESIDENT
&
MRS. RENU JAUHRI, HON'BLE ACCOUNTANT MEMBER**

ITA No. 2273/DEL/2025; A.Y.: 2016-17

AKSHAY ANAND C-8 Sharda Puri Ramesh Nagar New Delhi- 110015 Delhi	Vs	ASSESSING OFFICER Assessment Unit Income Tax Department
(APPELLANT)		(RESPONDENT)
PAN No. AIJPA0490M		

Assessee by : Shri Anmol Atrey, CA

Revenue by : Shri Ajay Kumar Arora, Sr. DR

Date of Hearing: 06.01.2026

Date of Pronouncement: 08.01.2026

ORDER

PER RENU JAUHRI :

This appeal is filed by the Assessee against the order of the Commissioner of Income Tax, New Delhi [for short, Ld. CIT (A)], u/s 250 of the Income Tax Act (for short, the "Act"), order dated 13.12.2024 in the Appeal No. NFAC/2015-16/10263171 for Assessment Year [for short, "A.Y."] 2016-17.

2. The Assessee has raised following grounds of Appeal which are reproduced as below:

“ 1. Investment in Sukhija Group (₹39,30,185) – Additions to Income Challenged

That the Ld. Assessing Officer:

- *Erred in assessing the facts and circumstances of the case, including the income of ₹39,30,185.*
- *Misinterpreted the appellant's role and financial involvement with Townhouse Café, erroneously concluding that the appellant made an investment in the establishment and holds a 10% partnership/shareholding in the entity, whereas the appellant was merely engaged in sales promotion activities.*
- *Failed to recognize that investments made by various investors, including the appellant, were in the nature of advances or deposits rather than share application money. This is evident from:*

1. No share application forms being submitted in relation to these transactions.

2. Amounts recorded as share application money without proper substantiation.

3. No shares allotted to the investors despite a substantial lapse of time.

- *Erroneously characterized the appellant's financial transactions as an investment in Townhouse Café, which is factually incorrect and legally unsustainable.*

2. Receipts from Sukhija Group (₹19,70,571) – Income Inclusion Challenged

That the Ld. Assessing Officer:

- *Erred in assessing the facts and disregarded the explanations and evidence (bank statements) provided by the assessee.*

- *Relied on handwritten pieces of paper that do not constitute proper evidence, as there is no proof that such payments were in fact made to the assessee.*
- *Ignored the absence of any written statements from the Sukhija Group confirming such payments to the appellant.*
- *Failed to issue verification notices under Section 133(6) of the Income Tax Act, which, if issued, would have affirmed the appellant's stance that no such payments were made.*
- *Erroneously construed the alleged payments as the appellant's income despite:*

1. No direct evidence indicating that the appellant received the said amount.

2. The order under Section 148A(d) not mentioning that the promoters of Townhouse Café confirmed the payments were made.

3. No incriminating evidence proving that the appellant received any unaccounted receipts.

- *Incorrectly assumed that vague entries in the books of Sukhija Group constitute sufficient evidence of income.*

3. Addition Based on AY 2017-18 Order – Failure to Consider Precedent

That the Ld. Assessing Officer:

- *Failed to take cognizance of the order passed for AY 2017-18, which was reopened along with AY 2016-17 under Section 148.*
- *Ignored that the Ld. AO for AY 2017-18 had already ruled in favour of the assessee on the same facts and issues.*
- *Did not consider that the AY 2017-18 order was passed 20 days before the order for AY 2016-17, making it a binding precedent for the latter.*

4. Penalty Imposable Under Sections 271(1)(b), 271(1)(c), 271D, 271E – To Be Quashed

That the Ld. Assessing Officer:

- *Erred in the facts and circumstances of the case and initiated penalty proceedings without proper justification.*
- *Passed the assessment order and initiated penalty proceedings.*”

3. Brief facts of the case are that the assessee filed return for A.Y.2016-17 on 18.03.2018, declaring income of Rs. 7,88,850/-. The case was re-opened u/s 147 to verify un-explained investments and receipts of the assessee. Assessment was completed at an income of Rs. 66,89,606/- after making additions totaling to Rs. 59,00,756/- u/s 69 and 69A of the Act as assessee did not submit requisite details sought by the Ld. AO. Aggrieved, the assessee preferred an appeal before Ld. CIT(A). As no effective compliance was made before Ld. CIT(A) also, the appeal was dismissed vide order dated 24.03.2025. Further aggrieved, the assessee had filed an appeal before the Tribunal.

4. Before us, the Ld.AR submitted that the assessment was completed u/s144 of the Act without giving sufficient opportunity to the assessee to furnish requisite details. He further submitted that on similar facts and circumstances, the order for A.Y. 2017-18 dated 03.05.2023 was passed wherein no addition was made on identical issues and the same was submitted before Ld. AO but not considered. He has therefore requested that the case may be restored to Ld. AO for fresh consideration on merits.

4.1 Ld. DR has also not opposed the above said proposition.

5. After hearing both the parties, in the interest of justice, we deem it appropriate to restore the matter to Ld. AO for fresh consideration on merits after giving due opportunity to the assessee.

6. The appeal of the assessee is allowed for statistical purposes.

Order pronounced in the Open Court on 08-01-2026.

Sd/-
(MAHAVIR SINGH)
Vice President

Sd/-
(RENU JAUHRI)
Accountant Member

Dated: 08 .01.2026

Pooja Mittal

Copy forwarded to:

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

Asstt. Registrar, ITAT, New Delhi