

**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. 2279/DEL/2025; A.Y.: 2015-16

Shri Vilayil Satyan Pillai F-13, 3 rd Floor, New Dehi Police Society Janta Garden, Pandav Nagar Patparganj (East Delhi) Delhi- 110091	Vs	Assessment Unit Income Tax Department NFAC, Delhi
(APPELLANT)		(RESPONDENT)
PAN No. BIFPP2903R		

Assessee by : Shri Kishan Gupta, Advocate

Revenue by : Shri Jitender Singh, CIT DR

Date of Hearing: 06.01.2026

Date of Pronouncement: 06 .01.2026

ORDER

PER RENU JAUHRI :

The above captioned appeal is preferred before the Tribunal against the order dated 21.01.2025, passed by Ld. CIT(A), National Faceless Appeal Centre (for short, NFAC), Delhi u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as, "Act"), in Appeal No. NFAC/2014-15/10285459 for A.Y. 2015-16.

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

"1. The Ld. National Faceless Appeal Centre (NFAC) has been erred on his fact and on law, after confirming & sustaining the entire addition of 43,21,25,823/- made in the re-

assessment order passed u/s 147 read with section 144B of the income tax act, 1961 dated 29.05.2023, without appreciated the entire matter resulting into dismissal of grounds of appeal for A.Y.2015-16.

2. *That the Ld. National Faceless Appeal Centre (NFAC) has been erred on his fact and law, on or after confirming such huge addition of Rs.43,21,25,823/ form part of commission income, being computed @10% of total debit and credit amount of Rs.432,12,58,233/- on adhoc basis from multiple banks, without any further inquiry about the validity of alleged transactions for A.Y.2015-16.*
3. *That on the fact and circumstances of case, the re-assessment proceeding u/s 147 of the income tax act, 1961 must be declared as illegal & invalid, on the reason of assessment procedure was not completed under the section 153A,153B & 153C of the income tax act, 1961 since requisition made u/s 132A of the income tax act, 1961 dated 26.12.2019 was hand over by office of the Jt. Director of Income tax (Inv.) (OSD)-III, Ghaziabad to jurisdictional assessing officer of the assessee on 28.03.2022.*
4. *That on the fact and circumstances of the case, the re-assessment proceeding u/s 147 may be held & treated as invalid & liable to be quashed for the relevant assessment year, without being followed of mandatory procedure laid down by the Hon'ble Supreme Court in the case of **GKN Driveshafts (India) Ltd. vs. Income Tax Officer and Ors. 2003) 1 SCC 72 against the res-issuance of notice u/s 148** on 29.06.2021 under old or unamended provision of the income tax act, 1961 for A.Y.2015-16.*
5. *That on the fact and circumstances of the case, the re-assessment proceeding u/s 147 may be held & treated as invalid & liable to be quashed in view of post amendment of finance act, 2021 from 01st April, 2021, being on the reason of variance about the scope of relied materials & information placed before show notice u/s 148A(b) dated 13.05.2022 of the income tax act, 1961, post **Hon'ble SC decision in the case of Union of india vs. Ashish Agarwal case**, before re-*

opening the assessment case and tangible materials discussed & presumed to be fit for reopening & escapement of income before by declaring reason to believe at the time of opening the re-assessment case given in the order u/s 148A(d) dated 30.06.2022 for A.Y.2015-16.

6. *That on the fact and circumstances of the case, the initiation of re-assessment proceeding made u/s 147 of the income tax act, 1961 for the relevant assessment year may purport to be invalid & liable to be quashed, due to non-fulfilment & non-compliance of clause (a) and (b) of section 148A of the income tax act, 1961 that gives requirement of conducting inquiry, if required with the approval of specified authority at every stage with respect to information chargeable to tax has escaped assessment and providing an opportunity for being heard to assessee, with the approval of specified authority, in pursuance of issuance of show cause notice u/s 148A(b) dated 20.07.2022, in consequence of Hon'ble SC Order in the case of Union of india & Ors. Vs Ashish Agarwal for A.Y.2015-16.*
7. *That on the fact and circumstances of the case, the opening of re-assessment proceeding made u/s 147 of the income tax act, 1961 for the relevant assessment year 2015-16 was liable to be invalid & to be quashed, on not mentioning the clear indication about the DIN & Notice No. on the issued notice u/s 148 of the income tax act, 1961 dated 29.06.2022 2022 for A.Y.2015-16.*
8. *That on the fact and circumstances of the case, the opening of re-assessment proceeding made u/s 147 of the income tax act, 1961 for the relevant assessment year 2015-16 must be declared as invalid, due to entire process of sanction for the purpose of section 148 and section 148A from specified authority, according to section 151 of the income tax act, 1961 for initiation for reassessment was availed in a mechanical manner & without application of mind, which is unjustified in the eye of law.*
9. *That on the fact and circumstances of the case, the entire re-assessment proceeding proceeded u/s 147 of the income etax act, 1961 must be held invalid & declared as void-ab-initio,*

on not followed the direction of Hon'ble Supreme court in the case of Union of india vs. Ashish Agarwal order dated 04.05.2022, being reason of without any support of inquiry about the alleged transaction & without any support of prior approval of specified authority on access to information given into investigation report by Jt. Director of income tax (Inv.) OSD-III, Ghaziabad dated 22.03.2022 required in accordance with clause(a) of section 148A of the income tax act, 1961.

10. That the entire re-assessment proceeding u/s 147 for the relevant assessment year must be declared as invalid & treated as wrong, on or after not followed the direction of Hon'ble Supreme court in the case of Union of india vs. Ashish Agarwal order dated 04.05.2022 about to take remedial steps and to follow or adopt the procedures as prescribed by section 148A prior to 31" march, 2022, so that corrective action may be taken from substituted provision with a specific aim and object to protect the rights and interests of the taxpayer and same being in the public interest, subject to compliance with all the procedural requirements and the defences available to taxpayers as per the new reassessment regime.

11. That the appellant craves to reserve the right to alter, amend or add any of the grounds of appeal before the appeal is heard and disposed off."

3. Brief facts of the case are that the assessee's case was re-opened u/s147 and, income was assessed at Rs. 43,27,44,406/- as against returned income or Rs. 6,18,583/- vide order dated 29.05.2023 passed u/s 147 r.w.s 144B of the Act. Aggrieved, the assessee preferred an appeal before the Ld. CIT(A). As no compliance was made to the multiple notices issued during the course of appellate proceedings, the appeal was dismissed *ex-parte* vide order dated 21.01.2025. Further aggrieved, the assessee has filed an appeal before the Tribunal.

4. At the outset, Ld. AR submitted that both the orders of the Ld.AO as well as Ld. CIT(A) were *ex-parte* as the assessee could not make any compliance to the notices issued and has requested for remanding the matter back to AO for fresh consideration. Ld. DR has not objected to the above said proposition.

5. We have heard both the parties and perused the material on record. It is noticed that the assessee has remained non-compliant through out the proceedings before the lower authorities. Hence, a cost of Rs. 10,000/- is being imposed which is to be deposited with the Legal Aid Authority of the Hon'ble Delhi High Court. Subject to the payment of cost as above, the matter is restored to Ld. AO for *de novo* consideration after providing due opportunity to the assessee.

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

Order pronounced in the Open Court on 06-01-2026.

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