

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'F' BENCH,
NEW DELHI

BEFORE SHRI YOGESH KUMAR US, JUDICIAL MEMBER, AND
SHRI NAVEEN CHANDRA, ACCOUNTANT MEMBER

ITA No. 3729/DEL/2025 [A.Y 2016-17]

The Dy, C.I.T
Central Circle-20
Delhi

Vs.

Asian Hotels [North] Limited
Hyatt Regency, R.K. Puram
[Main] South West Delhi
Delhi

PAN: AAACA 0125 H

(Applicant)

(Respondent)

Assessee By : Ms. Sunidhi, Adv

Department By : Shri Sumer Singh Meena, CIT- DR

Date of Hearing : 08.12.2025

Date of Pronouncement : 16.01.2026

ORDER

PER NAVEEN CHANDRA, ACCOUNTANT MEMBER:-

This appeal by the Revenue is preferred against the order of the
ld. CIT(A)-27, Delhi dated 27.01.2025 pertaining to A.Y 2016-17.

2. The grievances of the Revenue read as under:

- "1. Whether on the facts and circumstances of the case and in law, Ld. CIT(A) is correct in allowing relief to the assessee without deciding the case on merits?
2. Whether on the facts and circumstances of the case and in law, Ld. CIT(A) is correct in allowing relief to the assessee on order u/s 143(3) r.w.s. 263 of the Act by relying on the decision of Hon'ble ITAT, giving relief to the assessee against order u/s 263 of the Act passed in case of the assessee, without appreciating that the department is processing the filing appeal against the 263 order and if decision of the said appeal comes in favour of revenue then the revenue will be left with no remedy to pass a fresh order in pursuance to upheld order u/s 263 of the Act?
3. The Revenue has filed an application for condonation of delay on the ground that the authorization to file appeal before the ITAT was received late. Having perused the application for condonation of delay, we find that there is sufficient cause for filing the appeal belatedly by 35 days. We, therefore, condone the delay.
4. Briefly stated, the facts of the case are that the assessee is a limited company which filed its return of Income for A.Y 2016-17 on 29.09.2016 declaring loss of Rs 32,48,76,393. The assessee's case was selected for scrutiny and an order under section 143(3) of the Act was passed wherein addition amounting to Rs 19,07,225/- was made and

accordingly, the assessed income was computed to loss of Rs 32,29,69,168/-.

6. Aggrieved, the assessee went in appeal before the ld. CIT(A) who, allowed relief to the assessee computing the assessed income as loss of Rs 32,47,83,990/-.

7. Subsequently the PCIT set aside the said assessment order u/s 263 of the Act and directed the AO to pass a fresh order of assessment. The Assessing Officer passed the impugned order making additions amounting to Rs 6,48,41,747/- and raising the demand of Rs 13,07,31,628/-.

8. The additions made by the assessee pertains to the following:

- a) Disallowance of Rs 5,30,00,000/- on account of suppression of sales of liquor;
- b) Disallowance of deduction under section 43B of the Act amounting to Rs 99,72,168/-;
- c) Disallowance under section 69C of the Act on account of unexplained expenditure amounting to Rs 18,69,579/-;
- d) Added short term capital gain of Rs 54,93,70,062/- .

9. In appeal, the CIT(A) deleted the said additions. Being aggrieved the Revenue has preferred this appeal before us.

10. Before us, both the rival representatives reiterated what has been stated before the lower authorities.

11. At the very outset, we find from the order of the CIT(A) that the order u/s 263 of the Income-tax Act, 1961 [the Act, for short] has been quashed by the ITAT vide its order dated 26.11.2024. Therefore, the order made u/s 143 r.w.s 263 in pursuance of the said order u/s 263 of the Act becomes infructuous and no longer survives. Accordingly, the grounds of appeal raised by the Revenue stand dismissed.

12. In the result, appeal of the Revenue in ITA No. 3729/DEL/2025 is dismissed.

The order is pronounced in the open court on 16.01.2026.

Sd/-

**[YOGESH KUMAR U.S.]
JUDICIAL MEMBER**

Sd/-

**[NAVEEN CHANDRA]
ACCOUNTANT MEMBER**

Dated: 16th JANUARY, 2026.

VL/

Copy forwarded to:

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

Asst. Registrar,
ITAT, New Delhi

Sl No.	PARTICULARS	DATES
1.	<i>Date of dictation of Tribunal Order</i>	
2.	<i>Date on which the typed draft order is placed before the Dictating Member</i>	
3.	<i>Date on which the typed draft order is placed before the other Member [in case of DB]</i>	
4.	<i>Date on which the approved draft order comes to the Sr. P.S./P.S.</i>	
5.	<i>Date on which the fair Order is placed before the Dictating Member for sign</i>	
6.	<i>Date on which the fair order is placed before the other Member for sign [in case of DB]</i>	
7.	<i>Date on which the Order comes back to the Sr. P.S./P.S for uploading on ITAT website</i>	
8.	<i>Date of uploading, inf not, reason for not uploading</i>	
9.	<i>Date on which the file goes to the Bench Clerk</i>	
10.	<i>Date on which the file goes for Xerox</i>	
11.	<i>Date on which the file goes for endorsement</i>	
12.	<i>The date on which the file goes to the Superintendent for checking</i>	
13.	<i>Date on which the file goes to the Assistant Registrar for signature on the order</i>	
14.	<i>Date on which the file goes to the dispatch section for dispatch the Tribunal order</i>	
15.	<i>Date of Dispatch of the Order</i>	
16.	<i>Date on which the file goes to the Record Room after dispatch the order</i>	