

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

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER**

ITA No.1532/Del/2025
Assessment Year: 2010-11

ACIT, Delhi	Vs.	Cardio Technovention, 105, First Floor, Anupam Plaza-II, Main Road, Ghazipur
		PAN: AAFFC4399B
(Appellant)		(Respondent)

Assessee by	Sh. Pranshu G., CA Sh. Aditya Gupta, Adv.
Department by	Ms. Ankush Kalra, Sr. DR

Date of hearing	22.01.2026
Date of pronouncement	22.01.2026

ORDER

PER SATBEER SINGH GODARA, JM

This Revenue's appeal for assessment year 2010-11, arises against the Commissioner of Income Tax (Appeals) [in short, the "CIT(A)"], Delhi's-31 DIN and order no. ITBA/APL/S/250/2024-25/1072247332(1), dated 16.01.2025 involving proceedings under section 143(3) r.w.s. 147 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act').

Heard both the parties. Case file perused.

2. We notice at the outset during the course of hearing that the learned CIT(A) has quashed the impugned assessment framed by the learned Assessing Officer dated 26.12.2016 vide following detailed discussion:

“14. As regards Grounds No. 2 and 3 taken by the appellant that the notice issued under Section 147 of the Act is bad in law as at the time of issuing the notice, the appellant firm was not in existence, it is seen that the appellant also submitted that at the time of survey proceedings, the appellant firm was not in existence and this fact was known to the AO as the same finds mention in the statement of Shri Lalit Mundra recorded during the course of survey. The appellant placed reliance on the decision of the Hon'ble Delhi ITAT in the case of ACIT v. DLF Cyber City Developers Limited (2015) 53 taxman.com 81 (Delhi), wherein, Hon'ble ITAT held that notice issued to a dissolved partnership firm is not valid.

*15. Hon'ble Delhi ITAT has held that it is a settled law that the partnership-firm and the company are separate juridical persons. Under the Act also, they are assessed separately. Chapter IX of the Companies Act permits the conversion of the partnership-firm into company and, on such conversion, the partnership firm ceases to exist and the company comes into existence. This incident has taken place on 1-3-2006 and, therefore, from 2-3-2006, the firm is no more in existence. Notice under section 148 was issued on 18-8-2008, i.e., the date on which the partnership-firm was not in existence.
CARDIO TECHNOVENTION AV 2010-11*

16. Appellant also relied on the following decisions:

- *Spice Infotainment Ltd., vs. CIT (2012) 247 CTR 500*
- *ACIT v. Neha Enterprises [ITA No. 3666/Mum/2015]*
- *Pr. CIT-6, New Delhi vs. Maruti Suzuki India Ltd., (2017) 85 taxmann.com 330 (Del.) / 397 ITR 681 (SLP of Department dismissed by Supreme Court)*
- *Pr. CIT vs. Nokia Solutions & Network India (P.) Ltd., (2018) 90 taxmann.com 369 (Del.)*
- *CIT vs. Vived Marketing Services (P) Ltd., ITA.No.273/2009 dated 17th September, 2009*

- *BDR Builders & Developers (P) Ltd. v. ACIT [HC] (Delhi) (WP 2712/2016)*
- *Rustagi Engineering Udyog (P) Ltd. v. DCIT (2016) 382 ITR 443 (Delhi)(HC)*
- *CIT v. Micron Steels (P) Ltd. (2015) 372 ITR 386 (Del)*
- *CIT v. Dimension Apparels (P) Ltd. [2015] 370 ITR 288 (Delhi)*

17. Upon careful consideration of the submission of the appellant and the facts of the case, it is seen that the appellant firm was dissolved on April 1, 2014. At the time of survey and at the time of issuance of notice under Section 148 of the Act i.e. March 31, 2016, the appellant firm was dissolved and was not in existence. After the aforesaid decisions, Hon'ble Supreme Court in the case of Pr. CIT-6, New Delhi vs. Maruti Suzuki India Ltd., (2017) 85 taxmann.com 330 (Del.) / 397 ITR 681 (SLP of Department dismissed by Supreme Court) settled this issue and clearly held that any notice issued to a dead entity is bad in law and void ab initio. Keeping in consideration, that the firm was already dissolved on April 1, 2014, notice issued on March 31, 2016 on non-existent entity could not have been issued. However, since I have already given relief on the merits of the case to the appellant by following the order of CIT(A)-19 in the appellant's own case on identical facts for the AY 2013-14 and AY 2014-15, I am not inclined to adjudicate on technical grounds which remain only of academic interest now.

18. In the result, the appeal is allowed.”

3. That being the case, it has come on record that the Assessing Officer herein had set into motion the impugned reopening vide notice dated 31st March, 2016 whereas the assessee/respondent's firm already stood dissolved w.e.f. 01.04.2014. The Revenue vehemently argues that it was the assessee's burden to inform the Assessing Officer regarding its dissolution. We find no merit in the Revenue's instant sole substantive grievance as it has come on record that the assessee's authorized person Shri Lalit Mundra

(supra) has already highlighted the departmental authorities about the assessee's dissolution very well during survey. We thus conclude that the CIT(A) has rightly followed the hon'ble apex court's landmark decision in PCIT Vs. Maruti Suzuki (2019) 416 ITR 613 (SC) to hold the impugned reopening as null and void in very terms.

All other remaining pleadings between the parties on merits stand rendered academic.

4. This Revenue's appeal is dismissed.

Order pronounced in the open court on 22nd January, 2026

Sd/-
(AMITABH SHUKLA)
ACCOUNTANT MEMBER

Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

Dated: 22nd January, 2026.

RK/-

Copy forwarded to:

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

Asst. Registrar, ITAT, New Delhi