

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

**BEFORE SHRI SUDHIR KUMAR, JUDICIAL MEMBER  
AND  
SMT. RENU JAUHRI, ACCOUNTANT MEMBER**

ITA No. 4621/Del/2024 (AY 2011-12)

<b>ACIT, CIRCLE 3(1)(1), INTERNATIONAL TAXATION, NEW DELHI – 110 002 (APPELLANT)</b>	<b>Vs</b>	<b>RAMAKANT AC-1/181 B, SHALIMAR BAGH, DELHI – 100 88 (PAN: AAAHR2466R) (RESPONDENT)</b>
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<b>Assessee by</b>	Sh. Ramakant (Assessee) self
<b>Revenue by</b>	Sh. Ajay Kumar Arora, Sr. DR.

Date of hearing:	27/1/2026
Date of Pronouncement:	27/1/2026

**ORDER**

**PER SUDHIR KUMAR, JM:**

This appeal by the Revenue is preferred against the order of the Commissioner of Income –Tax (Appeals)-43 Delhi [in short “the Ld. CIT(A)] relevant to assessment year 2011-12 by raising the following grounds:-

1. Whether, the Ld. CIT(A) erred in deleting the additions without proper examination of documentary evidence?
2. Whether the CIT(A) erred in concluding that the AO had no tangible material to support the assessment when the AO relied on credible information from the Directorate of Income Tax (DIT) Investigation?
3. Whether the CIT(A) misinterpreted the scope and application of Section 10(33) of the Act, particularly with respect to the burden of proof for claiming exemptions on LTCG.

4. Whether he CIT(A) was justified in disregarding the AO's findings regarding the failure of the assessee to provide crucial information during the assessment proceedings under section 142(1)?
5. Whether the CIT(A)'s order, which is based on the conclusion that the assessee did not sell shares of the alleged penny stock (Global Capital Markets Ltd.), is legally tenable when the AO's inquiries were broader and included information from an external investigation?
6. Whether the CIT(A) erred in not considering the fact that the assessee failed to discharge the burden of proof regarding the source of the capital gains under section 69 of the Act?
7. Whether the CIT(A)'s decision to delete the disallowance of exempt income is contrary to the principles of best judgement assessment under section 144 of the Act.

2. At the outset, it is submitted by the Ld. DR that AO has completed the assessment by passing an exparte order u/s. 144 of the Act, against which the Assessee filed the appeal before the Ld. CIT(A) and during the proceedings filed the additional evidences. Upon the additional evidences, Ld. CIT(A) called the Remand Report from the AO, which was not submitted by the AO, however, in the absence of the Remand Report on the additional evidences, the addition made by the AO was deleted by the Ld. CIT(A), against which the Revenue is in appeal before us by requesting that the matter may be remitted back to the file of the AO to consider the additional evidences, if any, and then adjudicate the issues afresh, after giving adequate opportunity of being heard to the assessee, for which the assessee has no objection.

3. We have heard the rival contentions and perused the records. We find considerable cogency in the contention of the Ld. DR that it is a fact that AO has completed the assessment by passing an exparte order u/s. 144 of the Act, against which the assessee preferred the appeal before the Ld. CIT(A) and during the proceedings, the Assessee filed the additional evidences, upon

which the Ld. CIT(A) sought Remand Report from the AO, which was however, not submitted by the AO and in the absence of the said Remand Report, the Ld. CIT(A) has decided the appeal in favour of the Assessee, which is not sustainable in the eyes of law. In view of the aforesaid factual background and in the interest of justice, we deem it fit and proper to remit back the issues in dispute to the file of the Assessing Officer for its fresh adjudication, after giving adequate opportunity of being heard to the assessee by considering all the additional evidences. Assessee is also directed to fully cooperate with the AO during the proceedings and file its additional evidences, in order to canvass his case properly. We hold and direct accordingly.

4. In the result, the Revenue's appeal is allowed for statistical purposes

Order pronounced in the open court on 27-01-2026.

Sd/-  
**(RENU JAUHRI)**  
**ACCOUNTANT MEMBER**  
\*SR BHATNAGGAR\*

Sd/-  
**(SUDHIR KUMAR)**  
**JUDICIAL MEMBER**

Date:- 28.1.2026

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

**ASSISTANT REGISTRAR**  
**ITAT NEW DELHI**