

**IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH, DELHI**

**BEFORE SHRI ANUBHAV SHARMA, JUDICIAL MEMBER &
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

**ITA No.2828/Del/2025
(Assessment Year:2021-22)**

Itron India Private Ltd. C-7, Sector-3, Gautam Budh Nagar, Noida, Uttar Pradesh – 201301	Vs.	ACIT, Circle-10(1) CR Building , IP Estate, New Delhi – 110002
स्थायीलेखासं./जीआइआरसं./PAN/GIR No: AABCS6575L		
Appellant	..	Respondent

Appellant by :	Sh. Vishal Kalra, Adv. Ms. Sumisha Murgai, CA
Respondent by :	Sh. Rajesh Kumar Dhanesta, Sr. DR

Date of Hearing	28.01.2026
Date of Pronouncement	30.01.2026

ORDER

PER ANUBHAV SHARMA, JM:

This appeal is preferred by the assessee against the order dated 28.02.2025 of the Ld. CIT/Addl/JCIT-2, Bengaluru (hereinafter referred as Ld. First Appellate Authority or in short Ld. ‘FAA’) in DIN & Order No :

ITBA/APL/S/250/2024-25/1073818156(1) arising out of the order dated 22.09.2022 u/s 143(1) of the Income Tax Act, 1961 (hereinafter referred to as ‘the Act’) passed by the DEL-C(42)(1)for AY: 2021-22.

2. At the time of hearing Id. Counsel has submitted that the impugned order of Id. CIT(A) is primarily based on erroneous observation that there was merger of intimation u/s 143(1) of the Act with the assessment order passed u/s 143 r.w.s 144C(13) of the Act. The Id. Counsel has taken us through the order u/s 143 of the Act available at page No.330 which has the final computation of taxable income in consequence to the assessment concluded u/s 143(3) and we find that income has computed u/s 143(1)(A) at Rs.26,12,76,361/- have been taken and for completeness we reproduce the relevant part:

Sr. No.	Description	Amount (in INR)
1.	Income as per return of income filed	18,16,65,150/-
2.	Income a computed u/s 143(1)(a)	26,12,76,361/-
3.	Variation in respect of issue of <point 4.6> (if any)	23,00,60,150/-
4.	Variation in respect of issue of <> (if any) (As per DRP effect order)	2,23,59,656
5.	Total Income/Loss determined	51,36,96,167/-

3. However, ld. CIT(A) while passing the impugned order with following findings;

“5.2.1 On going through the submissions of the appellant, it is found that the appellant has filed an appeal against the addition of Rs.7,96,11,211/- made by the Ld. AO, CPC, Bengaluru in order u/s. 143(1) of the IT Act.

Thereafter, the case is selected for Complete Scrutiny under CASS. The Ld. AO, Assessment Unit has passed an order u/s. 143(3) r.w.s 144C (13) read with section 144B of the Income-tax Act on 25/10/2024 vide ITBA/AST/S/143(3)/2024-25/1069945378(1) and assessed an income of Rs. 51,36,96,167/- including the income determined by the Ld. AO, CPC, Bengaluru in order u/s. 143(1) of the IT Act. So, the appeal filed against the order u/s. 143(1) became infructuous.

Further, the appellant has also filed an appeal against the order u/s. 143(3) r.w.s 144C(13) read with section 144B before ITAT, Delhi vide Appeal Number: ITA 6040/DEL/2024 on 26-Dec-2024. So, the appeal filed against the order u/s. 143(1) became infructuous.

5.2.2 On this front, it is seen that the Hon. ITAT, Delhi in *South India Club v. ITO* (ITA 354/DEL/2024) dealt with a similar issue. It was held that.,

“The assessee claimed exemption under Section 11 while filing the Rol. The said exemption was denied vide the intimation under Section 143(1). The assessee filed an appeal before the CIT(A) against the said intimation. Subsequently, the case of the assessee was picked up for scrutiny and the Assessing Officer also denied the same exemption in the assessment order under Section 143(3) of the IT Act. The Hon'ble Tribunal held that in the present case the intimation under Section 143(1) of the IT Act merges with the assessment order under Section 143(3), the said intimation becomes inoperative. Therefore, the appeal filed against such an intimation would also become infructuous.”

Thus, it is held that the order passed u/s 143(1) is merged with the regular assessment passed u/s 143(3) and it does not have legs to stand on its own once the regular assessment proceedings are initiated. So, the appeal filed against the order u/s. 143(1) became infructuous.

6. In the result, this appeal is dismissed as infructuous.”

4. We are of the considered view that Id. CIT(A) has fallen in error in making aforesaid observation while dismissing the appeal as infructuous as by not taking into consideration adjustment made in the return income by CPC would lead to dual disallowance and agitated in separate appeal. Therefore, the issue is restored to the files of Id. CIT(A) to examine the issue fresh, in the light of the aforesaid observation of the Bench. The appeal is allowed for statistical purpose.

Order pronounced in the open court on 30.01.2026

Sd/-
(Manish Agarwal)
ACCOUNTANT MEMBER

Sd/-
(Anubhav Sharma)
JUDICIAL MEMBER

Dated 30.01.2026
Rohit, Sr. PS

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI