

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

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

**ITA No. 4534/Del/2024
(Assessment Year: 2016-17)**

DCIT, Circle 28(1) Room No. 1001, 10 th Floor E-2, Block Civic Centre, New Delhi – 110002	Vs.	Ashwani Khurana 5, Green Avenue Vasant Kunj, New Delhi – 110070
स्थायीलेखासं./जीआइआरसं./PAN/GIR No: AAEPK3731G		
Appellant	..	Respondent

**CO. No.12/Del/2025
Arising out of ITA No. 4534/Del/2024
(Assessment Year: 2016-17)**

Ashwani Khurana 5, Green Avenue Vasant Kunj, New Delhi – 110070	Vs.	DCIT, Circle 28(1) Room No. 1001, 10 th Floor E-2, Block Civic Centre, New Delhi – 110002
स्थायीलेखासं./जीआइआरसं./PAN/GIR No: AAEPK3731G		
Appellant	..	Respondent

Appellant by :	Sh. A.K. Khurana, CA
Respondent by :	Sh. Jitender Singh, CIT, DR

Date of Hearing	04.02.2026
Date of Pronouncement	11.02.2026

ORDER

PER ANUBHAV SHARMA, JM:

This appeal and Cross Objection preferred by the Revenue and the Assessee against the order dated 24.07.2024 of the Ld. National Faceless Appeal Centre (NFAC) (hereinafter referred to as the First Appellate Authority or 'the Id. FAA' for short) in DIN & Order No : ITBA/NFAC/S/250/2024-25/1066956257(1) arising out of the assessment order dated 21.05.2023 u/s 147 r.w.s 144B of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') passed by the Assessment Unit for AY: 2016-17.

2. On hearing both side we find that revenue has raised following grounds:

- “1. That on facts and circumstances of the case and in law, the CIT(A) has erred in quashing/invalidating the reassessment proceedings u/s 147 of the Act by ignoring that the Instruction No. 1/2022 dated 11/05/2022 was Issued by the CBDT in compliance of the judgement of Hon'ble Supreme Court dated 04/05/2022 in the case of Union of India Vs. Ashish Agarwal, for implementation of said judgment in uniform manner after considering the time extension provided by Taxation and Other Laws (Relaxation and amendment of certain provisions) Act, 2020 and the case of the assessee falls under the ambit of para 6.2(ii) this Instruction No.1 and therefore prior approval in this case for order u/s 148A(d) of the Act & Notice u/s 148 of the Act for A.Y. 2016-17 (both dated 30/07/2022) has rightly been taken

from the specified authority as per clause (i) of Section 151 of the Act i.e. Pr. Commissioner of Income Tax, Delhi-10, New Delhi."?

2. That on facts and circumstances of the case and in law, the Ld. CIT(A) has failed to appreciate that the notices issued u/s 148 by the JAO are as per automated allocation and risk management strategies and therefore, in alignment with the provisions of Section 151A r.w.s. 144B of the Income-tax Act, 1961 and both JAO as well as units under NFAC have concurrent jurisdiction under the Income-tax Act 1961, which has also recently been held by Hon'ble Kolkata High Court in its order in WP No WPO/1566/2023 dt 13.09.2023.
 3. Whether on facts and in circumstances of the case, the Ld. CIT(A) was justified in deleting the addition of Rs. 11,80,35,366/- without considering the facts that assessee has made property transaction of Rs. 11,80,35,366/- and without offering taxation of the same amount under the head Capital Gain?
 4. Whether on facts and in circumstances of the case, the Ld. CIT(A) was justified in deleting the addition of Rs. 10,34,320/- without going through detailed finding of the AO assessment order with respect to penny stock.
 5. The appellant reserves right to add, alter or amend the grounds of appeal on or, before the date of disposal of appeal.”
3. Ld. DR sought indulgence of the Bench on the basis that the question of assessment being concluded by JAO and FAO is under consideration for retrospective application by way of amendments brought recently in the Act, therefore, adjournment be granted. However, what we find interesting is that Assessing Officer has raised ground No 1 whereby the approval taken u/s 151

of the Act from PCIT, Delhi-10, New Delhi is claimed to be valid. Thus no basis for adjourning was made out and request of ld. DR was not sustained.

4. It is apparent that Ld. AO seems to be completely ignorant of the settled position of law as to under given facts of the case, which tax authority is competent, to grant mandatory approval u/s 151 of the Act. The present assessment for AY 2016-17 has been reopened vide notice dated 30/07/2022 i.e after the lapse of three years from the end of the relevant assessment year. The specified authority would thus be Principal Chief Commissioner of Income Tax. In this regard, reliance as placed by the Ld. AR on the decision of Coordinate bench in the case of Sampark Management Consultancy LLP Vs. DCIT in ITA Nos. 6025 & 6026/Del/2024 dated 25.06.2025, has to be sustained and the relevant part of this decision is reproduced below:

“This approval is contrary to the provisions of section 151 of the Act as amended/substituted by the Finance Act, 2021 because, as per section 151 of the Act, if more than three years have lapsed from the end of the relevant assessment year, approval of Principal Chief Commissioner of Income-tax or Principal Director General or Chief Commissioner or Director General was required to be obtained. In the present assessment years, notices u/s 148 have been issued on 28.07.2022 after expiry of three years from the end of relevant assessment years. Accordingly, sanction/approval of Principal Chief Commissioner of Income-tax or

Principal Director General or Chief Commissioner or Director General was required to be obtained. Reliance in this regard is placed on the decision of the Hon'ble Supreme Court in Union of India vs. Rajeev Bansal, 2024 (10) TMI 264 – SUPREME COURT) and various decisions. Thus, the approval is not sustainable under law.”

5. Thus, the grounds as raised have no substance. The appeal of revenue is dismissed and the Cross Objection becomes infructuous and accordingly dismissed.

Order pronounced in the open court on 11.02.2026

Sd/-
(Manish Agarwal)
ACCOUNTANT MEMBER

Sd/-
(Anubhav Sharma)
JUDICIAL MEMBER

Dated 11.02.2026
Rohit, Sr. PS

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI