

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES : A : NEW DELHI

BEFORE Ms. MADHUMITA ROY, JUDICIAL MEMBER
AND
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER

ITA No.8834/Del/2025
Assessment Year: 2007-08

Veer Sawarkar Katyal,
329, Sainik Vihar,
Pitampura,
Rani Bagh,
New Delhi – 110 034.

Vs ITO,
Ward 43(6),
Delhi.

PAN: ABDPK7569E

(Appellant)

(Respondent)

Assessee by

: Shri Ved Jain, Advocate &
Ms Uma Upadhyay, CA

Revenue by

: Shri Ravi Kant Chaudhary, Sr. DR

Date of Hearing

: 12.03.2026

Date of Pronouncement

: 13.03.2026

ORDER

PER MADHUMITA ROY, JM:

The instant appeal filed by the assessee is directed against the order dated 23.10.2025 issued by the Id. Commissioner of Income-tax (Appeals), NFAC, Delhi [hereinafter referred to as the Ld. CIT(A)] under Section 250 of the Income Tax Act, 1961 (hereinafter referred to as ‘the Act’) arising out of the assessment order dated 28.09.2021 passed by the Income Tax Officer, Ward 43(6), Delhi (hereinafter referred to as ‘the Id. AO’) under Section 254 r.w.s. 144 r.w.s. 147 of the Act for Assessment Year 2007-08.

2. On the basis of an information received from the Investigation Wing that the assessee along with Mrs. Brij Bala and M/s Yogum Developers Ltd. purchased a property lying and situated at V3S-Omaxe for a consideration of Rs.1,05,55,375/- by paying cash, notice under Section 148 of the Act was issued on 26.03.2014 and the assessment was finalized under Section 147 r.w.s. 143(3) of the Act dated 05.03.2015 upon making addition of Rs.1,07,46,560/- in the hands of the assessee which was restricted to Rs.35,18,458/- by the First Appellate Authority in the appeal preferred by the assessee. Both the Revenue and the assessee preferred appeals before the Ld. ITAT against the said order passed by the Ld.CIT(A). The appeal preferred by the Revenue stood dismissed due to low tax effect and in assessee's appeal the Tribunal on 06.12.2019 while remitting the issue to the file of the Ld. AO observed as follows:-

“7. We have also considered the various decisions cited before us. We find, the Assessing Officer, in the instant case, on the basis of the information obtained from the Investigation Wing that the assessee had purchased one property V3S-Omaxe from Mrs. Brij Bala & M/s Yogum Developers Ltd. for Rs.1,05,55,375/- in cash, made the addition of the same to the total income of the assessee in the reassessment proceedings initiated u/s 147 of the Act. We find, the ld.CIT(A) sustained an amount of Rs.35,18,458/- being 1/3 of the total investment in the property since the said property was purchased by the assessee jointly with two other persons. It is the submission of the ld. counsel that despite request before the Assessing Officer as well as before the CIT(A), the documents/statements which were the basis for reopening of the assessment as well as the addition so made were never supplied to the assessee to rebut such allegations and the assessee was not given any opportunity to confront the persons whose statement was recorded and which is the basis of initiation of reassessment proceedings and for making the addition. It is also the submission of the ld. counsel that if the so-called documents/statements, which are the basis of initiation of reassessment proceedings and the addition, are provided to the assessee, the assessee is in a position to rebut the same. Considering the totality of the facts of the case and in the interest

of justice, we deem it proper to restore the issue to the file of the Assessing Officer with a direction to provide the copy of the statement so recorded and the documents so obtained from the Investigation Wing which are the basis for initiation of reassessment proceedings and making the addition. The Assessing Officer shall decide the issue as per fact and law, after giving due opportunity of being heard to the assessee. We hold and direct accordingly. The grounds raised by the assessee are accordingly allowed for statistical purposes.

8. *In the result, the appeal filed by the assessee is allowed for statistical purposes.*

The decision was pronounced in the open court on 06.12.2019.”

3. Thereafter, a notice under Section 142(1) dated 21.09.2021 was issued upon the assessee directing the assessee to file a reply by 22.09.2021. On 28.09.2025, the order was passed against the assessee which was, in turn, confirmed by the First Appellate Authority, hence, the instant appeal before us.

4. Before the First Appellate Authority, the assessee filed a reply on 4th June, 2024 whereupon a remand report was called for appearing at page 186 of the paper book and the assessee was, in turn, directed to furnish the groundwise written submission against the remand report submitted by the Ld. AO, before the CIT(A). The assessee, on 22.09.2025 replied to the same seeking short time since the assessee was in the process of compilation of paper book and preparation of written submissions and, thereafter, on 23.10.2025 the Ld.CIT(A) passed the order confirming the order of addition made by the Ld. AO to the tune of Rs.1,05,55,375/- in the hands of the assessee. The Ld. Sr. Counsel Shri Ved Jain, at the time of hearing of the matter, submitted before us that the assessee is

aggrieved mainly on two counts. Firstly, on the first round of litigation when the Ld.CIT(A) restricted the addition to the tune of Rs.35,18,458/- and directed the Ld. AO to furnish the details upon the assessee and to proceed with the issue afresh in the appeal preferred by the assessee when the Revenue's appeal stood dismissed due to low tax effect, meaning thereby, the Ld. AO was directed to adjudicate the issue of addition restricted by the Ld.CIT(A) to the tune of Rs.35,18,458/- and not the entire addition made to the tune of Rs.1,05,55,375/-. Secondly, it was the case all along by the assessee that the assessee was not in possession of any of the documents relied upon by the Revenue which is why the Hon'ble Tribunal has been pleased to remit the issue to the file of the Ld.AO for adjudication of the same with a specific direction upon the Ld. AO to furnish the so-called documents/statements which were the basis of the reassessment proceedings nor confronted to the assessee. Neither the statement so recorded nor the documents so obtained from the Investigation Wing since has never been forwarded to the assessee by the Ld. AO in spite of direction passed by the Tribunal finalization of the assessment in the second round is nothing, but a highhanded action of the authority, totally illegal and, therefore, liable to be quashed. Relevant to mention that the Ld. DR has failed to bring any document evidencing the fact that either the statement so recorded or the document so obtained from the Investigation Wing which had been relied upon by the Ld. AO to proceed against the assessee even in the second round of litigation in spite of order having been passed by the ITAT were furnished to the assessee. No such

compliance is evident on record. Thus, such argument and the case made out by the assessee that the principle of natural justice has been violated and without complying the order passed by the Tribunal in its letter and spirit the order of addition made by the AO is a colourable exercise of power, whimsical and erroneous is found to be justified. The addition, therefore, does not sustain and, thus, quashed.

5. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open court on 13.03.2026.

Sd/-

(AMITABH SHUKLA)
ACCOUNTANT MEMBER

Sd/-

(MADHUMITA ROY)
JUDICIAL MEMBER

Dated: 13 .03.2026.

dk

Copy forwarded to:

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

Asstt. Registrar, ITAT, New Delhi