

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

**BEFORE SHRI ANUBHAV SHARMA, JUDICIAL MEMBER &  
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER**

**ITA No.6133/Del/2025  
(Assessment Year:2017-18)**

KshitizSachdeva Prop. Alert International, F-1, Udyog Nagar, Rohtak Road, New Delhi – 110041	Vs.	ITO, Ward 44(7) Civic Centre, Minto Road, New Delhi - 110002
स्थायीलेखासं./जीआइआरसं./PAN/GIR No: APLPS0538R		
Appellant	..	Respondent

Appellant by :	Sh. J.S. Kochar, CA
Respondent by :	Sh. Manish Gupta, Sr. DR

Date of Hearing	30.03.2026
Date of Pronouncement	08.04.2026

**ORDER**

**PER ANUBHAV SHARMA, JM:**

This appeal is preferred by the assessee against the order dated 08.08.2025 of the Ld. National Faceless Appeal Centre (NFAC) Delhi (hereinafter referred as Ld. First Appellate Authority or in short Ld. ‘FAA’) in DIN & Order No.: ITBA/NFAC/S/250/2025-26/1079416515(1) arising out

of the order dated 30.11.2019 u/s 143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') passed by the ITO, Ward-44(7) for AY: 2017-18.

2. On hearing both sides we find that assessee in additional ground by virtue of Rule 11 of the Income Tax Appellate Tribunal Rules, 1963 which is reproduced below:

- “1. That the assessee filed the accompanying appeal raising five grounds of appeal.
2. That the assessee prays for leave to raise the following ground as an additional ground which was inadvertently omitted from the memorandum of appeal:  
  
“That the assessment order passed by the ITO Ward 44(7), Delhi was invalid, as the initiation of assessment proceedings itself was invalid, having been initiated by Asstt. Commissioner of Income Tax, Circle 41(1) by issuing notice under section 143(2) of the Income Tax Act, 1961, who was not competent to issue the same in view of Instruction no. 1/2011 dated 31/01/2011 issued by CBDT as the income declared by the assessee was Rs. 12,29,680.”
3. That the omission of the above ground from the memorandum of appeal filed before the CIT (Appeals) was not intentional and the appellant did not stand to derive any advantage by its omission.
4. That the adjudication of the above ground does not involve any investigation of facts and is a purely legal ground involving interpretation of law and instruction issued by CBDT
5. That the Hon'ble Supreme Court, in the case of National Thermal Power Co. Ltd. Vs. Commissioner of Income Tax 1998) 229 ITR 383(SC) held that this Hon'ble Tribunal ought to admit the additional ground for adjudication in such cases.”

3. Ld. Counsel has drawn our attention to the copy of acknowledgment ITR for AY: 2017-18 available at page No. 1 of the paper book wherein gross total income has shown as Rs. 14,16,120/- and the computation statement of same is provided at page No. 2-5 of the paper book. At page 47-50 is a copy of notice u/s 143(2) dated 21.09.2018 issued by ACIT, Circle 41(1). In fact, subsequent notice u/s 142(1) dated 26.07.2019 and 4.09.2011 copy of which is available at page 51 -53 and 54-56 respectively, copy of notice u/s 142(1) dated 10.11.2019 copy of which is available at page 57-58 is shown to be issued by ITO, Ward 44(7).

4. Now CBDT instructions No. 1 of 2011 dated 31.01.2011 provide that in case of metro cities income declared by individuals is above Rs.20,00,000/- in those circumstances Deputy Commissioner/Assistant Commissioner has power of assessment. Thus, in case of assessee as the income declared was less than Rs. 20,00,000/- the power vested with Income Tax Officer only. Therefore, issuance of notice u/s 143(2) of the Act for assumption of jurisdiction of assessment to be completed u/s 143(3) by ACIT, Circle 41(1) is vitiated.

5. Ld. counsel has relied the catena of decisions to submit that in case of violation of pecuniary jurisdiction the assessment is vitiated and it is countered by the Ld. DR by relying decision of Hon'ble Allahabad High Court decision in ShivaaditiyaJems And Jewellery (P) Ltd. Vs. ITO, (2022) 143 taxman.com 64 (Allahabad). After considering the law relied we are of the considered view that CBDT Instruction dated 31.01.2011 have been issued u/s 119 of the Act and same vest jurisdiction over and above the other subject of jurisdiction, and prevail on them. Co-ordinate Bench in ITA No. 1020/del/2019 VKM Holdings Pvt. Ltd. Vs. ACIT, Circle 4(1) New Delhi has decided the additional ground raised in similar manner in favour of the assessee by relying the Boards Circular and Hon'ble Bombay High Court decision in case of Ashok Devichand Jain Vs. Union of India (2023) 151 taxmann.com 70 (Bombay High Court). As per same proposition, we rely decision of Coordinate Bench in Vipul Mittal Vs. DCIT, Circle 11(2) New Delhi in ITA No. 2850/Del/2019 and in case of Arjun Rishi Vs. ITO, (2025) 176 taxmann.com 720 (Delhi-Trib) and in case of Vanshika Motors (P) Ltd. Vs. ACIT, Circle-2 Meerut in ITA No. 6212/Del/2017 and in case of J.Mitraand Bros Vs. ACIT, Circle 50(1) in ITA No. 3643/Del/2023).

6. The decision relied by ld. DR is thus distinguishable as they are the issue was not of the breach of instruction issued u/s 119 vesting jurisdiction on the basis of pecuniary limit but the issue under examination was the effect of jurisdiction of the tax authorities subsequent to search and the jurisdiction was assumed u/s 148 of the Act by assessing officer having territorial jurisdiction. As far contention is concerned that the objection should be raised within one month. We are of the considered view that the question is not of dispute with regard to concurrent jurisdiction but with regard to pecuniary jurisdiction and the assessment proceeding are questioned being vitiated due to jurisdiction of notice u/s 143(2) by authority not competent to issue notice.

7. In the aforesaid facts and circumstances we allow the additional ground. The appeal of assessee is allowed and the impugned assessment is quashed.

Order pronounced in the open court on 08.04.2026

Sd/-  
(Amitabh Shukla)  
ACCOUNTANT MEMBER

Sd/-  
(Anubhav Sharma)  
JUDICIAL MEMBER

Dated 08.04.2026

Rohit, Sr. PS

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT NEW DELHI