

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "H", DELHI**

**BEFORE SH. RAMIT KOCHAR, ACCOUNTANT, MEMBER  
AND  
SH. SUDHIR KUMAR, JUDICIAL MEMBER**

ITA No.2390/DEL/2022  
Assessment Year: 2017-18

<b>GHANPUR SOLAR PRIVATE LIMITED</b> Prasad and Prasad, CA,s Flat no.301 M.J. Towers H- N0. 8-2-698 Road No.12 Banjara Hills Hyderabad Telangana PAN No. AAGCG1692R	<b>Vs.</b>	<b>ACIT(OSD) Delhi</b> <b>C.R. BUILDING,</b> <b>I.P. ESTATE, NEW DELHI</b>
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

Appellant by	Sh. Ravi Sharma, Adv. Sh. Kshitij Bansal, CA Ms. Supriya Mehta, CA
Respondent by	Sh. Abhishek Deval, Sr. DR

Date of hearing:	12/03/2026
Date of Pronouncement:	17/04/2026

**ORDER**

**PER SUDHIR KUMAR, JUDICIAL MEMBER:**

This appeal by the assessee is directed against the final assessment order dated 31-07-2022 passed under section 143(3) r.w.s. 144C of the of the Income Tax Act [hereinafter

referred “the Act”] in pursuance of the DRP directions dated 30-12-2021 under section 144C (5) of the Act.

2. The assessee has raised the following grounds in appeal:

1. *The Learned (Ld.) assessing Officer (AO) /Ld. Dispute Resolution Panel (DRP) are erroneous in law and on the facts of the case.*

2. *The Ld. DRP/AO is not justified in making an adjustment of Rs.1,55,84,878/- in respect of management fees.*

3.*The Ld. DRP /AO ought to have accepted the CPM Method as the Most Appropriate Method for benchmarking the management fees as per the provisions, u/s 92C (1) of the Income Tax Act, 1961.*

4. *The Ld. DRP/AO erred in disregarding the transfer pricing study report and the information documents and clarification provided by the assessee to evidence the arm’s length nature of management fees.*

5. *The Ld. TPO erred in arriving ALP as Rs. Nil by CUP Method as the Most Appropriate Method without providing the basis for application of methodology.*

6. *Without prejudice to the above the Ld. DRP/AO failed to appreciate the fact that the management fee of INR Rs.1,55,84,878/- was not debited to the P&L Account as the same was capitalized during the year under consideration.*

7. *Any other ground that may be urged at the time of hearing with the prior approval of the Hon’ble Tribunal.*

3. An application has moved by the assessee to raise the additional ground of appeal under rule 11 of the Income Tax (appellate Tribunal) Rules 1963 and stated that the final assessment order dated 31-07-2022 passed by the Ld. AO u/s 143(3) read with section 143(3) is barred by the time limitation. He further stated that tribunal has power to admit any additional grounds. Reliance is placed on the followings decisions of the Hon'ble Supreme Court.

(i) Jute Corporation of India Ltd. Vs. CIT [1990] 53 taxman 85.

(ii) CIT vs. Nellippan [1967] ITR 722 (SC)

(iii) CIT vs. Jai Parabolic Springs Ltd. [2008] ITR 42 (Delhi)

In the case of National Thermal Power Co. Ltd. Vs. CIT [1998] 229 ITR 383 (SC) the Hon'ble Apex Court held as under

*“The view that the Tribunal is confined only to issues arising out of the appeal before the Commissioner of Income Tax (Appeals) takes too narrow a view of the powers of the Appellate Tribunal. Undoubtedly, the Tribunal will have the discretion to allow a new ground to be raised. But where the Tribunal is only required to consider the question of law arising from facts which are on record in the assessment proceedings we fail to see why such a question should not be allowed to be raised when it is necessary to consider that question in order to correctly assess the tax liability of an assessee.*”

We have heard the parties and perused the material available on record. In the view of the above cited judgments the additional ground raised by the assessee are admitted, which is under:

*8. On the facts and circumstances of the case & law, the final assessment order under section 143(3) of the Income Tax- Act, 1961 (The Act) dated 31 July 2022 is barred by the time limitation provided under section 144C(13) of the Act and hence, deserves to be held as void -ab-initio, bad in law and time barred.*

3. The brief facts of the case are that the assessee company filed its return of income on 30-11-2017 declaring total income of Rs.3,37,670/-. The case of the assessee was selected for scrutiny under CASS for the following reasons; International transaction. Notice under section 143(3) of the Act was issued and thereafter notice under section 142(1) of the Act was issued. During the assessment year under consideration the assessee entered into international transactions as envisaged in section 92B of the Act. After considering the auditor's report in Form 3CEB it was felt that case be transferred to the Transfer Pricing Officer (TPO) for determining Arm's Length Price under section 92CA (1) of the Act. The Ld. TPO passed the order after considering the reply filed by the Assessee and directed the AO to make the addition of Rs. 1,55,84,878/-. Against the direction of the Ld. TPO the assessee filed the appeal before the Hon'ble

DRP who by order dated 30-12-2021 confirmed the order of the Ld. TPO and directed the AO to incorporate the findings of the Panel. In the compliance of the Hon'ble DRP direction the Assessing Officer framed the Assessment order on 31-07-2022 after making the addition of Rs. 1,55,84,878/-. Aggrieved, by the action of the AO the assessee preferred this appeal before the tribunal.

4. The ld. AR of the assessee raised the legal ground no 8 and submitted that the assessment order dated 31-07-2022 passed by the Ld. AO under section 143(3) r.w.s. 143 (3) of the Act is time barred. He submitted that as per the provisions of section 144C(13) of the Act the Ld. AO should have passed the assessment order till 31-01-2022 from the receiving the direction of the Hon'ble DRP, which was received on 30-12-2021. Reliance is placed on the decision of Hon'ble Jurisdictional High Court in case of PCIT v. Fiberhome India (P.) Ltd [2024] 159 taxmann.com 772(Delhi). The written submission for the assessee as under:

**Zelestra**  
**Ghanpur Solar Private Limited**

BEFORE THE HON'BLE INCOME TAX APPELLATE TRIBUNAL, NEW DELHI  
BENCH 'H'

**In the matter of:**  
**M/s Ghanpur Solar Private Limited ('Appellant')**  
**Assessment Year ('AY'): 2017-18**  
**ITA No.: 2390/Del/2022**

**Brief Synopsis – Additional Ground No. 8 (On period of limitation)**

1. The instant appeal emanates from the final assessment order dated **31 July 2022** (*at Pg. 4 of appeal set*) passed under section 143(3) r.w.s. 144C of the Income-tax Act, 1961 ('the Act') in pursuance of the DRP directions under section 144C(5) of the Act dated **30 December 2021** (*at Pg. 9 of appeal set*).
2. At the outset, it is respectfully submitted that the said final assessment order dated 31 July 2022 **is barred by limitation** under section 144C(13) of the Act as the same has been passed after the mandatory timeline of 1 month from the end of the month in which DRP directions were received [being contested by Appellant vide **Additional Ground No. 8**].
3. This **fact has duly been admitted** by the department/ Ld. AO himself in their recent response to the RTI application dated 14 July 2025 (copy enclosed as **Exhibit-1**) where the Ld. AO has responded that the DRP directions were received on 30 December 2021 (relevant extracts reproduced as follows):

	Upheld the adjustments made in Draft order
Hon'ble DRP passed order u/s	u/s143(3) rws 144C(1) of the Act dated
5 144C(5) of the Act	30.12.2021 17.04.2021.

**(refer Exhibit-1 for copy of above extracts)**

4. The Appellant, hence, at the very outset, is praying for admission of the aforesaid additional ground raised vide its separate application dated 11 September 2025 and its detailed contentions in respect of the aforesaid ground is provided as follows for your Honour's kind consideration:



## Ghanpur Solar Private Limited

### 5. Additional Ground No. 8: Final assessment order dt. 31 July 2022 being time barred under section 144C(13) of the Act:

5.1. It is humbly reiterated that the final assessment order dated 31 July 2022 (at Pg. 4 of appeal set) passed by the Ld. AO under section 143(3) r.w.s. 144C(13) of the Act is barred by limitation being passed beyond a period of 1 month from the end of the month in which the DRP directions were received as stipulated under section 144C(13) of the Act.

5.2. In this regard, the relevant provisions of section 144C(13) of the Act reads as follows:

***“Reference to dispute resolution panel.***

***144C. (1)...***

***(13) Upon receipt of the directions issued under sub-section (5), the Assessing Officer shall, in conformity with the directions, complete, notwithstanding anything to the contrary contained in section 153 or section 153B, the assessment without providing any further opportunity of being heard to the assessee, within one month from the end of the month in which such direction is received.”***

5.3. Hence, the Ld. AO was required to complete the assessment in accordance with the aforesaid provision of section 144C(13) of the Act within one month from the end of the month in which the DRP directions were received.

5.4. The relevant sequence of events is summarized hereunder for the sake of ready reference:

S. No.	Particular/ Event	Date	Page referencing
1	Date of receiving DRP directions	30 December 2021	Refer <b>Exhibit-1</b> containing Ld. AO's confirmation in response to RTI application
2	Time Limit to pass final assessment order	31 January 2022	As per section 144C(13) of the Act
3	Actual date of passing of final assessment order	31 July 2022	Refer Pg. 4 of appeal set.

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6. Therefore, based on the aforesaid sequence of events/ dates (as also confirmed & admitted by the Ld. AO in response to the RTI application), it is evident beyond any iota of doubt that the final assessment order has been framed in the instant case on 31 July 2022 which beyond the mandatory time-limitation of 31 January 2022 and hence, the same is barred by limitation and liable to be quashed.
7. Reliance in this regard is placed on the decision of Hon'ble jurisdictional High Court in case of **PCIT v. Fiberhome India (P.) Ltd. [2024] 159 taxmann.com 772 (Delhi)** wherein on identical fact pattern, the Hon'ble Delhi High Court upheld the quashing of final assessment order passed beyond the statutory timeline provided under section 144C(13) of the Act. The relevant extracts from the decision are reproduced as follows:

*"1. The appellant seeks to question the validity of the order of the Income Tax Appellate Tribunal ["ITAT"] dated 13 March 2023. **The ITAT has essentially upheld the view taken by the Authority below i.e., Dispute Resolution Panel ["DRP"] which found that the assessment made in terms of section 144C of the Income Tax Act, 1961 ["Act"] would fall foul of the statutory limitation period as prescribed therein.***

***2. Undisputedly, the DRP had framed its directions in terms of the order dated 16 December 2021. A final order of assessment ultimately came to be framed on 26 March 2022 and thus evidently beyond the 30 day period as prescribed.***

*3. We note that an identical question has been answered by us in [W.P.(C) 15381 of 2022, dated 30-1-2024], titled as **"Louis Dreyfus Company India (P.) Ltd. v. Dy. CIT [2024] 159 taxmann.com 244 (Delhi)" in favour of the assessee/petitioner.** While dealing with this question, we had observed as follows:-*

*"14. The determination which the AO makes in the first instance is recognized to be a draft of the proposed order of assessment by virtue of section 144C(1) of the Act. If the assessee be aggrieved by the proposed order of assessment, it is entitled to*

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*file objections before the DRP in accordance with section 144C(2) of the Act. The power of the AO to complete the assessment on the basis of the draft order stands interdicted in case objections have come to be preferred within the 30 day period as contemplated in section 144C(2) of the Act. It is the DRP which thereafter proceeds to decide the objections and frame directions to enable the AO to complete the assessment in accordance with section 144C(5) of the Act.*

**15. In terms of sub-section (13) of section 144C of the Act, the AO is mandated to complete the assessment "in conformity with the directions" as framed by the DRP. That very provision commands the AO to complete the assessment within one month from the end of the month in which such a direction is received.**

16. This is evident from Section 144C of the Act which is extracted hereinbelow:-

\*\* \*\* \*

**17. As is manifest from a reading of sub-section (13) of section 144C of the Act, the AO is not accorded any discretion in the framing of an order of assessment once directions have come to be framed by the DRP. In fact, the provision requires the AO to frame an order of assessment in conformity with those directions and without providing any further opportunity of hearing to the assessee. This principle of law has been affirmed by the Bombay High Court in the aforementioned paragraphs of Vodafone Idea and in Shell India Markets Private Limited v. Additional Commissioner of Income Tax Officer, National Faceless Assessment Centre & Ors. The relevant paragraph of the decision in Shell India are extracted hereinbelow:**

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 CIN: U40106HR2015PTC132542

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## Ghanpur Solar Private Limited

*"10. Sub-section (13) of section 144C, therefore, is very clear inasmuch as the Assessing Officer shall, upon receipt of the directions issued under sub-section (5), in conformity with the directions, complete the assessment within one month from the end of the month in which such direction is received. Sub-section (13) also provides that the Assessing Officer can complete the assessment without providing any further opportunity of being heard to the assessee. **This means that the moment the Assessing Officer receives the directions under sub-section (5), he has to straightaway complete the assessment and he does not even have to hear the assessee. The Assessing Officer shall simply comply with the directions received from the DRP within one month from the end of the month in which such direction is received.**"*

*18. In this backdrop, we note that both the judgments of the Bombay High Court in Shell India and Vodafone Idea construe the time lines as provided in Section 144C to be mandatory in character. In our considered opinion, this interpretation is in accord with the intent behind insertion of that provision and the bare text and spirit of that section. Thus, we accord our approval to the interpretation as set out in the aforementioned decisions of the Bombay High Court.*

*19. Further, the procedure of assessment as provided under Section 144C does not envisage or contemplate the interdiction or involvement of the TPO once a directive has been framed by the DRP. The role of the TPO comes to an end once an order as contemplated under Section 92 CA(4) of the Act has come to be framed and remitted to the AO. There was thus no occasion for the TPO having resumed proceedings post the passing of the direction by the DRP on 20 June 2022.*

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20. Undisputedly, the directive of the DRP came to be uploaded on the ITBA portal on 24 June 2022. It is additionally stated to have been dispatched through Speed Post to the third respondent (TPO) and the fourth respondent (Additional/Joint/Deputy/Assistant Commissioner of Income Tax, National Faceless Assessment Centre, New Delhi) on 27 June 2022. It is thereafter that the TPO appears to have passed the order dated 25 July 2022.

\*\* \*\* \*

22. It is thus manifest that as per the provisions of E-as, 2019, all orders, notices and decisions have to be necessarily uploaded on the ITBA portal and as part of the larger faceless assessment regime which now holds the field. The uploading of the directive of the DRP on the ITBA portal would thus constitute valid and sufficient service and the period of limitation as prescribed in section 144C(13) of the Act would be liable to be computed bearing that crucial date in mind. Once the aforesaid position becomes clear, it is evident that the order of assessment, if at all could have been framed lastly by 31 July 2022. **There has thus been an abject failure on the part of the first respondent to comply with the mandatory timelines as incorporated in the aforementioned provisions. Accordingly, the writ petition is liable to be allowed and the impugned order of assessment and the consequential penalty proceedings are thus liable to be set aside on this short score alone."**

4. We, consequently, find no merit in the instant appeal and the same shall stand dismissed."

8. Reliance is also placed on the decision of the **jurisdictional High Court** in case of **Louis Dreyfus Company India (P.) Ltd. (supra)** as reproduced hereinabove and followed by the Hon'ble Delhi High Court in the case of Fiberhome India (P.) Ltd. (supra).

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9. Further, reliance is also placed on the following decisions:
- a) **Microsoft Corporation (India) P. Ltd. v. DCIT, ITA No. 1862/DEL/2022 (Delhi - Trib.)**
  - b) **Rolls Royce India Pvt. Ltd. v. DCIT, ITA No. 252/Del/2022 (Delhi - Trib.)**
  - c) **Adidas India Marketing Private Limited v. ACIT [ITA No. 940/Del/2023] (Delhi - Trib.)**
  - d) **Hyundai Rotem Company Indian Project offices v. ACIT, International Taxation [2024] 169 taxmann.com 367 (Delhi - Trib.)**
  - e) **Honda R & D (India) (P.) Ltd. V. ACIT, [2024] 163 taxmann.com 147 (Delhi - Trib.)**
  - f) **Lubrizol Advanced Materials India (P.) Ltd. v, Assessment Unit, Mumbai ITAT, [2023] 156 taxmann.com 243 (Mumbai - Trib.)**
10. Thus, in view of the above mentioned judicial pronouncements and facts and circumstances of the case, the final assessment order dated 31 July 2022 passed by the Ld. AO beyond a period of one month as prescribed under section 144C(13) of the Act is barred by limitation and liable to be quashed.

**Prayer:**

In view of the above, it is most humbly prayed that appropriate relief may kindly be allowed to the Appellant by the Hon'ble Bench.

**For Ghanpur Solar Private Limited**

(Authorized Signatory)

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5.The information received by the assessee under RTI ACT 2005 re -produce as under:

Exhibit -1

**OFFICE OF THE  
ASSISTANT COMMISSIONER OF INCOME TAX,  
RANGE – 10, 4<sup>TH</sup> FLOOR, ROOM NO. 405,  
C.R. BUILDING, LP. ESTATE, NEW DELHI-110002  
Email id: delhi.acit10.osd@incometax.gov.in**

F. No. ACIT(OSD)-R-10/Delhi/RTI/2025-26/96

Dated: 14.07.2025

Name of the Appellant Sh. Arunprasad Mohan, Finance Head & Principal Officer  
M/s Ghanpur Solar Pvt. Ltd., First Floor, D-2, Southern Park  
Building, Saket, New Delhi-110017

Date of Order 14.07.2025

**Order u/s 7(1) of the RTI Act, 2005. reg.**

Please refer to your RTI application dated 23.05.2025 which was received to this office on 30.06.2025 through offline mode, being forwarded by the O/o The ACIT, Circle-10(1), Delhi.

2. As per your RTI application, you have requested to provide the information about details of receipts of DRP directions for AY-2017-18 in the case of M/s Ghanpur Solar Pvt. Ltd. (PAN: AAGCG1692R) against which final assessment order was completed on 31.07.2022.

3. In this regard the complete details of Key events in this case is as under:

**Key Events in the case of M/s Ghanpur Solar Pvt. Ltd., AY-2017-18**

Sl. No	Event	Date	Remarks
1	Draft Order u/s 143(3) r.w.s 144C(1) of the Act	17.04.2021	Any objection was to be filed by assessee on or before 17.05.2021
2	<b>Final Asst. Order u/s 143(3) r.w.s 144C(3)</b> read with section 144B of the Act	30.06.2021	Order passed by Faceless Unit with TP adjustment of Rs. 1,55,84,878/- as no intimation of DRP objection was conveyed to Faceless Assessing Officer through e-filing portal or any other mode.
3	Assessee filed objection before Hon'ble DRP	30.06.2021	<b>However, no intimation of objection made to FAO and also objection is not in prescribed time limit i.e. before 17.05.2021.</b>
4	Assessee filed Appeal before CIT(A) against order u/s 143(3) r.w.s 144C dated 30.06.2021	27.08.2021	<b>Appeal of the assessee before Ld. CIT(A) is still pending for adjudication against AO order dated 30.06.2021 .</b>
	Hon'ble DRP passed order u/s 144C(5) of the Act	30.12.2021	Upheld the adjustments made in Draft order u/s143(3) rws 144C(1) of the Act dated 17.04.2021.

- Order giving effect to the directions of DRP was passed by the AO u/s 143(3) r.w.s 143(3) Order of any court other than due to appeal or reference 31.07.2022 Assessee filed appeal before Hon'ble ITAT against AO order dated 31.07.2022 vide ITA No. 2390/Del/2022 dated 27.09.2022
- The facts out of order dated 30.06.2021 is discussed in detail in this order and the addition was sustained.
- 6
- 7 **Appeal is still pending for adjudication.**

4. In this regard, it is further submitted that, as the original assessment proceedings was completed u/s 143(3) r.w.s 144C(3) of the Act on 30.06.2021 in faceless manner, where all communication among the concerned parties were executed online through e-filing portal hence no physical records in this case was maintained.

5. It is also informed that if you are not satisfied with the reply, you may file an appeal under the RTI Act 2005 against the above decision within 30 days from the receipt of this letter. The Appellate Authority in this case is Addl.CIT, Range-10, Room Nos. 414, 4<sup>th</sup> Floor, CR Building, IP Estate, New Delhi-110002.

  
(D.L. Bairwa)  
Asst. Commissioner of Income Tax (OSD),  
Range-10, New Delhi.

Copy to :  
i) The Additional Commissioner of Income Tax, Range-10, New Delhi for Kind information.

Asst. Commissioner of Income Tax (OSD),  
Range-10, New Delhi.

6. Ld. DR has relied upon the order of the Assessing Officer and submitted that order was passed as per the direction of the Hon'ble DRP. We have heard the parties and perused the material available on record. In this case the DRP issued the direction on 30-12-2021 which was received to the Ld. AO on the same day on the ITBA module. The Ld. Officer passed the final assessment order as per the direction of the Hon'ble DRP on 31-07-2022 which was passed after one month and mandatory requirement of the one month was not followed by the Ld. Assessing officer. Thus, the final assessment order passed by the Ld. AO is time barred and liable to be set-a-side.

7. Respectfully following the judicial pronouncements cited above we allowed the legal ground no 8 raised by the assessee and set-a side the assessment. Since we have decided the legal ground in favour of the assessee, the other grounds have become academic and keep them open for adjudication.

8. In the result the appeal of the assessee is allowed.

Order pronounced in the open court on 17.04.2026.

Sd/-

Sd/-

**(RAMIT KOCHAR)**  
**ACCOUNTANT MEMBER**

**(SUDHIR KUMAR)**  
**(JUDICIAL MEMBER)**

SR BHATNAGGAR

Date: 17.04.2026

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT DELHI