

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

**BEFORE SHRI S RIFAUR RAHMAN, ACCOUNTANT MEMBER
&
SHRI VIMAL KUMAR, JUDICIAL MEMBER**

**ITA No.3773/Del/2018
(Assessment Year: 2014-15)**

Kavita Sharma, 15/103, Duplex, Vasundhra, Ghaziabad, U.P.	Vs.	ITO Ward 1(3), Ghaziabad
स्थायीलेखासं./जीआइआरसं./PAN/GIR No: AVJPS 8783J		
Appellant	..	Respondent

Appellant by :	Sh. Salil Kapoor, Adv , Sh. Sumit Lal Chandani, Adv, Sh. Shivam Yadav, Adv & Sh. Utkarsa Gupta, Adv
Respondent by :	Ms. Harpreet Kaur Hansra, Sr. DR

Date of Hearing	26.02.2026
Date of Pronouncement	17.04.2026

ORDER

PER VIMAL KUMAR, JM:

The appeal filed by the assessee is against the order dated 19.03.2018 of the Ld. Commissioner of Income Tax (Appeals), Ghaziabad (hereinafter

referred to as “Ld. CIT(A)”), u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as “the Act”), arising out of assessment order dated 16.12.2016 of the Ld. Assessing Officer/ITO Ward-1(3), Ghaziabad (hereinafter referred to as “Ld. AO”), u/s 143(3) of the Act for Assessment Year 2014-15.

2. Brief facts of the case are that, assessee filed return of income of Rs.9,14,500/- on 29.10.2014 which was duly processed. The case was selected for “Complete Scrutiny” through CASS for reason “Low net profit or loss shown from large gross receipts”. Notice u/s 143(2) of the Act dated 07.09.2015 was issued by the ITO Ward 67(2), New Delhi. On change of AO again notice u/s 143(2) dated 21.09.2015 was issued. Notice u/s 142(1) dated 12.02.2016 along with detailed questionnaire was issued.

2.1. Sh. Jai Shankar Mishra, FCA/AR of the assessee attended the proceedings, filed written submissions and explanation.

2.2. On completion of proceedings, Ld. AO vide order dated 16.12.2016 made addition of Rs.5,13,21,792/-.

3. Against order dated 16.12.2016 of Ld. AO, the assessee filed appeal before Ld. CIT(A) which was dismissed vide order dated 19.03.2018.

4. Being aggrieved, appellant-assessee preferred present appeal on following grounds of appeal:-

1. The impugned asstt. is illegal and unsustainable in law being framed by ITO Ward-1 (3), Ghaziabad U.P. who was not having legally valid jurisdiction in the case in the absence of validly transfer of jurisdiction to him from ITO Ward-67 (2), New Delhi in the absence of any notice, proceedings and order u/s.127 of the LT. Act from Jurisdictional Pr. CIT, New Delhi, being the Pr. CIT of ITO Ward-67 (2), New Delhi where the jurisdiction existed prior to transfer and without providing the reasonable opportunity of being heard by Pr. CIT, as mandated vide sec. 127 (1) r/w sec.127 (3) of the I.T. Act.

2. That under the facts and circumstances the Ld. A.O. erred in law as well as on merits in rejecting books of accounts u/s.145 (3), thereafter in estimating the NP 28% without any basis and material on record, on the declared turnover of Rs.65,19,53,588/- against declared NP of 0.12% and thus erred in making consequential addition of Rs.5,13,21,792/-.

3. That under the facts, Ld. A.O. further erred in law and on merits in rejecting the declared results without confronting with the alleged adverse material and without providing proper and reasonable opportunity of being heard.

4. That under the facts, Ld. CIT (A) also erred in law and on merits in not providing proper and reasonable opportunity of hearing, more so the case was lastly fixed before CIT (A) on 06.03.18, the assessee visited the office of CIT (A) on that date, however she did not come her office on 06.03.18, the assessee was assured by the staff for fresh date of hearing, however, without issuing any fresh notice, the appeal stood decided vide impugned CIT (A) order dtd. 19.03.18, thus principles of natural justice stands violated making the CIT (A) order as illegal and unsustainable.

5. Through application dated 30.06.2025 pleaded following Additional Ground No.1:-

Additional Ground No. 1. That the notice issued under Section 143(2) of the Act and the consequent assessment proceedings are illegal, bad in law and without jurisdiction

6. Ld. Authorized Representative for appellant-assessee submitted that, for AY 2014-15, assessee had filed ITR on 29.10.2014 by mentioning designation of AO as ITO Ward 43(2), address of assessee was mentioned as Ghaziabad. When the case was selected for scrutiny the PAN of the assessee was lying with ITO Ward 67(2), New Delhi, hence the notice u/s 143(2) dated 07.09.2015 was issued by ITO Ward 67(2), New Delhi. Subsequently, the case was transferred to the correct jurisdiction of ITO Ward 1(3), Ghaziabad and notice u/s 143(2) of the Act dated 21.09.2015 was issued by ITO Ward 1(4), Ghaziabad.

6.1. Hon'ble High Court of Delhi in the case of **Director of Income-tax Vs. Society for Worldwide Inter Bank Financial, Telecommunications** reported [2010] 323 ITR 249 (Delhi), held as under:-

Where both Commissioner (Appeals) and Appellate Tribunal had returned a concurrent and clear finding of fact that notice under section 143(2) was issued on 23-3-2000, while return itself was filed on 27-3-2000, notice was not a valid one as provisions of section 143(2) make it clear that notice can only be served after Assessing Officer has examined return filed by assessee.

6.2. Hon'ble ITAT Delhi in ITA No.3555/Del/2015 titled as Sh. Ajay Sharma Vs. DCIT in order dated 05.03.2019 set aside notice u/s 143(2) where

notice u/s 143(2) issued at the time and date of return filing u/s 148 (vide order sheet entry dated 27/04/2016) vitiates the entire exercise and accordingly all subsequent proceedings are held to be invalid in eyes of law and therefore we quash the orders passed by AO and Ld. CIT(A) and allow additional ground raised by assessee.

6.3 The business of trading is carried out by the assessee in Delhi. PAN of assessee is registered in Delhi. The case was transferred without any valid order u/s 127. VAT Returns, in column No.4 mention the place of business is Delhi which is Page No.128 of Paper Book. Audit Report is at Page No.161 of Paper Book. The appellant-assessee could not furnish books of account before Ld. AO and Ld. CIT(A), so the matter may be restored to the file of Ld. AO.

7. Ld. Departmental Representative submitted that, notice u/s 143(2) dated 07.09.2015 was issued by ITO Ward 67(2) New Delhi, as PAN of the assessee was lying in his AO code. On noticing that, the ITR of assessee mentioned address as “15/103, Vasundhara, Ghaziabad, U.P.” and the correct jurisdiction was of ITO Ward 1(3), Ghaziabad. The case was transferred vide

memo dated 21.09.2015 and same day notice u/s 143(2) was issued by ITO Ward 1(3), Ghaziabad.

7.1. Ld. Departmental Revenue has no objection of restoration of the matter to the file of Ld. AO.

8. From examination of record, in light of the aforesaid rival contention, it is crystal clear that, ITR of assessee for AY 2014-15 mentioned address as “15/103, Vasundhara, Ghaziabad, U.P.”, designation of AO as ITO Ward 43(2). After selection of case by scrutiny, notice u/s 143(2) dated 07.09.2015 was issued by ITO Ward 67(2), Delhi, on transfer of case of assessee to correct jurisdiction of ITO Ward 1(3), Ghaziabad, the notice u/s 143(2) dated 21.09.2015 was issued.

9. On completion of proceedings, Ld. AO passed assessment order dated 16.12.2016 u/s 143(3) of the Act. Ld. CIT(A) dismissed the appeal of assessee vide order dated 19.03.2018 confirming the action of Ld. AO.

10. Ld. Authorized Representative for appellant-assessee submitted that the appellant-assessee could not furnish books of accounts before Ld. AO and

Ld. CIT(A), so the matter may be referred to Ld. AO. Ld. Departmental Representative gave no objection.

11. In view of above material facts and interest of justice assessment order dated 16.12.2016 of Ld. AO and order dated 19.03.2018 of Ld. CIT(A) are set aside and the matter is restored to the file of Ld. AO for fresh decision in accordance with law after affording fair opportunity of hearing to the assessee.

12. Therefore, additional ground No.1 of the assessee is partly allowed.

13. The grounds of Appeal No.1-4 being academic in nature are left open.

14. In the result, the appeal of the assessee is **allowed for statistical purposes.**

Order pronounced in the open court on 17.04.2026

Sd/-
(S. Rifaur Rahman)
ACCOUNTANT MEMBER

Sd/-
(Vimal Kumar)
JUDICIAL MEMBER

Dated 17.04.2026
*Mittali, Sr. PS

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI