

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

**BEFORE SH. S. RIFAUR RAHMAN, ACCOUNTANT MEMBER
AND
SH. SUDHIR KUMAR, JUDICIAL MEMBER**

ITA No.1100/DEL/2025
Assessment Year: 2016-17

Upneet Singh Arneja, V-19, Second Floor, Rajouri Garden, New Delhi-110027 PAN No. AIUPA9526B	Vs.	ITO Ward- 45 (1) New Delhi
(APPELLANT)		(RESPONDENT)

Appellant by	Ms. Rano Jain, Advocate Sh. Pranshu Singhal, CA
Respondent by	Sh. Dheeraj Kumar Jain, Sr.DR

Date of hearing:	13/08/2025
Date of Pronouncement:	27/08/2025

ORDER

PER SUDHIR KUMAR, JUDICIAL MEMBER:

This appeal by the assessee is directed against the order of the Commissioner of Income Tax (Appeals)/National Faceless Appeal Centre, Delhi [hereinafter referred to as "CIT(A)"] vide order dated 12.02.2025 pertaining to A.Y. 2016-17 arising out the assessment order dated 20.04.2023 u/s.147 r.w.s 144 read

with section 144B of the Income-tax Act, 1961, (in short 'the Act').

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

1. *On the facts and circumstances of the case, the order passed by the National Faceless Appeal Centre (NFAC) is bad both in the eye of law and on facts.*
2. *On the facts and circumstances of the case, NFAC has erred both on facts and in law in confirming the order passed by the A.O., despite the same being initiated in violation of the statutory conditions of the Act and the procedure prescribed under the law and as such the same is bad in the eye of law and liable to be quashed.*
3. *On the facts and circumstances of the case, NFAC has erred both on facts and in law in confirming the order passed by the A.O., despite the same being initiated without proper approval as mandated under section 151(ii) of the Act.*
4. *On the facts and circumstances of the case, the NFAC has erred both on facts & in law in confirming the addition of an amount of Rs. 94,85,865/- made by Assessing Officer.*
5. *On the facts and circumstances of the case NFAC has erred both on facts and in law in substituting the new sections as against the one invoked by the Assessing Officer, without giving assessee an opportunity of being heard.*
6. *On the facts and circumstances of the case, the NFAC has erred both on facts & in law in confirming the said addition arbitrarily rejecting the material and evidences brought on record by the assessee to prove the transaction in question.*

7. *On the facts and circumstances of the case, NFAC has erred both on facts and in law in confirming the action of the AO despite the law that no adverse inference can be drawn against the assessee on the basis of material collected at the back of him, without giving an opportunity to rebut the same, in violation of principle of natural justice.*

8. *On the facts and circumstances of the case, the NFAC has erred both on facts and in law in confirming the action of the AO despite the law that the addition is untenable in the eye of law having been made without providing opportunity to cross examine the person on the basis of whose statement the allegations have been made against the assessee and without following the principle of natural justice.*

9. *The appellant craves leave to add, amend or alter any of the grounds of appeal.*

3. The brief facts of the case are that the assessee is an individual. The assessee, prop. of M/s. Kanika Herbals has e-filed his return of income for the AY 2016-17 on 17.10.2016 declaring total income of Rs.4,43,800/- and the same was declared invalid by the CPC. Later on, it is seen that the assessee has furnished ITR for the year under consideration on 16.04.2018 without condonation of delay where income of Rs.4,43,800/- and turnover of Rs.2,95,86,240/- was declared. The assessee has not filed the form 3CA/3CD Tax audit report for the year under consideration despite the fact that turnover of

Rs.2,95,86,240/- was declared. During the search proceedings on Shri Atul Tyagi, it was found that the Shri Atul Tyagi has deposited the Rs.229 crores in various banks accounts during the demonization period. Shri Atul Tyagi accepted in his statement that he has been working as entry provider and he used his various bank accounts for this purpose and also used the account of the assessee. Notice u/s 148 of the Act was issued on 18-05-2021. Further in the compliance of the Hon'ble Supreme court order show cause notice u/s 148A(b) of the Act was issued. After considering the reply submitted by the assessee the Assessing Officer completed the assessment after making the addition of Rs. 94,85,865/- under section 68 of the Act.

4. Aggrieved by the order of the AO the assessee filed the appeal before the Ld. CIT(A), who vide his order dated 12-02-2025 dismissed the appeal. Being aggrieved by the order of the Ld. CIT(A) the assessee is in appeal before the Tribunal.

5. Ld. Counsel for the assessee has raised the legal ground no.6 and stated that first notice u/s 148 was issued on 28-05-2021 for the A.Y. 2016-17 under the old reassessment

tax regime, however due to the introduction of new reassessment tax regime from 01-04-2021 and in the compliance of the Hon'ble Supreme Court Order in the case of Ashish Agarwal notice u/s 148A(b) of the Act was issued on 18-05-2022 and consequent order under section 148A(d) of the Act on 28-07-2022 was issued. The case of the assessee relates to the A.Y. 2017-17 and the notice /order was issued on 28-07-2022 after a period of three years from the end of o relevant assessment Year, the sanctioning authority should have been Principal Chief Commissioner or Principal Director General or Chief commissioner but in this case the approval has been obtained from the Pr. Commissioner of Income Tax, which is not the competent authority to grant the permission. This issue is squarely covered by the Judgement of Hon'ble Jurisdictional Delhi High Court in the case of Communist Party of India (Maxist) V. CIT(Ex) WP 9031/2023 dated 28-04-2025 and the case of Sampark Management Consultancy LLP v. DCIT, Circle - 5(2) (1) Noida ITA NO. 6025 & 6026 /Del/2024 dated June 25, 2025. In the case of Sampark Management Consultancy LLP v. DCIT, Circle -5(2) (1) Noida the Co-ordinate bench held as under:

“3. We find that section 148 of the Act was substituted by the Finance Act, 2021 w.e.f. 01.04.2021. Notice 14 of the Act as per the old provisions of section 148 of the Act applicable till 31.03.2021 should have been issued only upto 31.03.2021. The issue stands settled by the Hon'ble Supreme Court in Union of India vs Ashish Agarwal, 444 ITR 1 (SC) The assessee company was part of the litigations. The AO has issued notice u/s 148A(b) on 27.05.2022 and on 28.07.2021 order was passed u/s 148A(d) and issued notice is 148 of the Act on the same date, i.e, on 28.07.2022 in AY 2016-17 and while in AY 2017-18 on 27.07.2022 order was passed u/s 148A(d) and issued notice w/s 148 of the Act on 28.07.2022. This notice dated 28.07.2022 u/s 148 of the Act, available at page 14-15 of the paper book for AY 2016-17 and on pages 16-17 for PB for AY 2017-18, and same are shown to be issued after obtaining approval of Principal Commissioner of Income-tax, Noida. 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. The grounds as raised deserves to be sustained. Consequently, the appeals of the assessee are allowed.”

6. The Ld. Sr. DR has relied the order of the lower authorities and submitted that the notice/ order was issued after taking the prior approval from the authority as per the directions of the Hon'ble Supreme Court in the case of Ashish Agarwal [2022] 444 ITR 1 SC. In the present case the notice was issued on 28-07-2022 for the A.Y. 2016-17 from the prior approval of the Pr. Commissioner, without, the approval of the authority specified u/s 151 of the Act. The notice was issued beyond the period of three years from the end of the relevant assessment year, thus in term of section 151(ii) of the Act the sanction was required to be approved by the Principal Chief Commissioner or Principal Director General or where there is no such authority, by Chief Commissioner or Director General. Respectfully following the decision of the Hon'ble High Cort and the Co-ordinate Bench we allowed the appeal of the assessee and quashed the assessment order dated 20-04-2023.

7. We allowed the appeal of the assessee on legal ground 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 27.08.2025.

Sd/-

(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Neha, Sr. PS

Date: .08.2025

Copy forwarded to:

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

Sd/-

(SUDHIR KUMAR)
(JUDICIAL MEMBER)

ASSISTANT REGISTRAR
ITAT DELHI