

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "A": NEW DELHI
BEFORE SHRI M. BALAGANESH, ACCOUNTANT MEMBER
AND
SHRI SUDHIR KUMAR, JUDICIAL MEMBER**

ITA No. 168/Del/2025
(Assessment Year: 2014-15)

Karan Motors Pvt. Ltd, A3-44, Third Floor, Janakpuri, New Delhi	Vs.	DCIT, Central Circle-27, New Delhi
(Appellant)		(Respondent)
PAN: AAACK0039L		

Assessee by :	Shri Ajay Wadhwa, Adv Ms. Ragini Handa, Adv
Revenue by:	Shri Ajay Kumar Arora, Sr. DR
Date of Hearing	31/07/2025
Date of pronouncement	29/08/2025

O R D E R

PER M. BALAGANESH, A. M.:

1. The appeal in ITA No.168/Del/2025 for AY 2014-15, arises out of the order of the Commissioner of Income Tax (Appeals)-31, Delhi [hereinafter referred to as 'Id. CIT(A)', in short] dated 09.12.2024 against the order of assessment passed u/s 143(3) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 19.12.2016 by the Assessing Officer, Addl. CIT, Special Range-5, New Delhi (hereinafter referred to as 'Id. AO').
2. At the outset, we find that the assessee had raised additional ground under Rule 11 of the Income Tax Rules, 1963 on 10.03.2025. The additional ground raised, being a legal issue, goes to the root of the matter and hence, in view of the decisions of the Hon'ble Supreme Court in the case of NTPC Ltd Vs. CIT reported in 229 ITR 283 and Varas International (P) Ltd reported in 284 ITR 80, we are inclined to admit the additional ground and

take up for adjudication. The additional ground raised by the assessee is as under:-

"a) That the order of assessment dated 19.12.2016 passed under section 143(3) of the Act is without jurisdiction since the learned Additional Commissioner of Income-tax, who framed the impugned assessment was not empowered or authorized or directed under the provisions of sec. 120(4)(b) read with section 2(7A) of the Act to exercise the powers or perform the functions of Assessing Officer and as such, he did not have the jurisdiction to make the assessment since the order granting him jurisdiction under Section 120(2) and Section 120(4) was not passed, as is evident from the assessment order for the impugned assessment year, hence assessment is illegal, invalid and, be quashed as such."

3. We have heard the rival submissions and perused the material available on record. The return of income for AY 2014-15 was filed by the assessee company on 29.11.2014 declaring loss of Rs. 5,66,60,134/- which was duly processed u/s 143(1) of the Act. The assessee company is manufacturer of certain spare parts in the automobile industry apart from being engaged in manufacturing of cylinder heads and engine blocks for over four decades. The range of products caters to very application of diesel, petrol and compressed natural gas (CNG) fuelled engines for earthmovers, tractors, combines, trailers, trucks, commercial vehicles, power generators, passenger vehicles, vintage cars, marine application and so forth. It is stated in the assessment order that case of the assessee falls under the jurisdiction of Addl. CIT, Special Range-5, New Delhi by virtue of an order passed u/s 127 of the Act by the Pr. CIT, Delhi-5, New Delhi on 04.08.2016. Accordingly, the assessment u/s 143(3) of the Act was framed for AY 2014-15 on 19.12.2016 by the Id Addl. CIT, Special Range-5, New Delhi (herein after the Id AO) after making several additions to the tune of roughly Rs 20 crores.

4. The assessee had sought for a copy of the order dated 04.08.2016 passed u/s 127 of the Act by the Pr. CIT-5 Delhi, New Delhi. Similarly, the

assessee had also sought for a copy of the order, if any, passed u/s 120(2)/ 120(4)(b) of the Act by virtue of which the CBDT empowered the Pr. CIT to appoint or give jurisdiction for assessment of the assessee to the Addl. CIT. Despite asking for these details, these documents were never furnished to the assessee by the department. Later the very same details were even asked by the assessee under RTI Act, 2005. In response to the RTI application, the ACIT, Circle-13(1), New Delhi vide letter dated 19.03.2025 forwarded the RTI application of the assessee to DCIT, Central Circle-18, New Delhi. Evidence in this regard is enclosed in page 2 of the RTI paper book filed by the assessee. The assessee preferred an appeal before the first appellate authority under RTI Act, 2005 seeking to direct the CPIO to furnish the desired information sought for in the RTI application. The Id PCIT, Delhi-4, New Delhi vide letter dated 22.05.2025 transferred the RTI application for first appeal u/s 19(1) of the RTI Act, 2005 to Addl CIT, Range-13, New Delhi. The evidence in this regard is enclosed at page 11 of the RTI paper book filed before us. Later an order u/s 19(6) of the RTI Act dated 10.05.2025 was passed by Addl. CIT, Range-13, New Delhi disposing off the appeal of the assessee under RTI Act. In the said appellate order, no specific reply furnishing the details called for by the assessee in its RTI application were provided by the first appellate authority. Instead it was mentioned that PAN of the jurisdiction of the assessee company lies with DCIT, Central Circle-18, the RTI application was transferred to DCIT, Central Circle on 19.03.2025. This obviously does not contain the documents called for by the assessee such as order passed u/s 127 of the Act on 04.08.2016 and order ,if any, passed u/s 120(2)/ 120(4)(b) of the Act authorizing the Pr. CIT to give jurisdiction of the assessment of the assessee to the Addl CIT. Ultimately, the first appellate authority refused to condone the delay in filing the appeal of the assessee and dismissed the appeal. Aggrieved by the order of the First Appellate Authority, the 2nd appeal was filed by the

assessee on 19.06.2025 before the Central Information Commission (CIC), New Delhi.

5. A letter dated 07.05.2025 was addressed by Assistant CIT, Central Circle-27, Delhi to assessee in connection with the RTI on 07.03.2025 filed by the assessee referred supra. In the said letter, the Id ACIT, Central Circle-27, Delhi categorically admitted that after the completion of the assessment for AY 2014-15 on 19.12.2016, the case records for AY 2014-15 is not available with his office. The evidence in this regard is placed in pages 24-25 of the RTI Paper Book filed before us. Aggrieved, the assessee preferred appeal before the First Appellate Authority under RTI Act. An order u/s 19 of the RTI Act dated 19.06.2025 was passed by the First Appellate Authority wherein it was mentioned that on perusal of the RTI Application of the assessee and reply of the Central Public Information Officer (CPIO), it was noticed that documents sought by the applicant (assessee herein) are related to some other authority i.e. then Pr. CIT-5, Delhi. Accordingly, the First Appellate Authority directed the Id CPIO to transfer the RTI application to the concerned office for further action. With these directions, the appeal was disposed off by the First Appellate Authority. The evidence in this regard is enclosed in pages 33 to 34 of the RTI Paper Book filed before us. Aggrieved, the assessee preferred 2nd appeal on 24.07.2025 before Central Information Commission (CIC), New Delhi and same is pending.

6. From the chronology of events narrated above, it could be seen that assessee has been made to run from pillar to post for obtaining the basic preliminary documents namely order passed u/s 127, 120(2)/120(4)(b) of the Act conferring jurisdiction to Addl. CIT to pass the assessment order. These orders were never furnished to the assessee despite assessee asking the same in regular means as well as by invoking the provisions of RTI Act,

2005 which is evidenced from the chronology of events narrated above. Even before us, the revenue was not able to place on record the order passed u/s 120(4)(b) of the Act, if any, conferring jurisdiction to the Addl. CIT to frame the assessment of the assessee for AY 2014-15. In these circumstances, we find lot of force in the arguments advanced by the Id AR for presumption to be drawn in favour of the assessee that there is no such order passed u/s 120(2)/ 120(4)(b) of the Act conferring jurisdiction to the Addl. CIT to frame the assessment. In this regard, the Id AR rightly placed reliance on the decision of the coordinate bench of Delhi Tribunal in the case of Nasir Ali Vs. Addl. CIT, Range-23, New Delhi in ITA No. 1285/Del/2018 dated 25.09.2019. The relevant portion of the said order is reproduced herein below:-

"7.2. According to Section 120(1) and (2) of the I.T. Act, the Board may assign to Income Tax Authorities to exercise any of the powers and perform of or any of the functions conferred on as the case may be under this Act to act as Income Tax Authorities. The Board may also issue directions or authorise any other Income Tax Authorities to issue orders in writing for exercise of powers and perform of functions by or any of other Income Tax Authorities who were subordinate to it. In issuance of such directions under sub-sections (i) and (ii), the Board or any other Income Tax Authorities authorised by it may have regard to the criteria namely territorial area, person or class of persons, income or class of income and cases or class of cases. According to Section 120(4) of the I.T. Act, Board may by general or special order authorise or empower Pr. Director General or Director General or Pr. Chief Commissioner or Chief Commissioner or Pr. Commissioner or Commissioner to issue order in writing that the powers and functions conferred on or as the case may be assign to the A.O. by or under this Act in respect of any specified area or person or class of persons or income or class of income or case or class of cases, shall be exercised or perform by Addl. Commissioner or Others and where any order is made under this clause, reference in any other provisions of this Act or in any Rules made there under to the A.O. shall be deemed to be reference to the Addl. Commissioner or Others by whom the powers and functions are to be exercised or perform under such order and any provisions of this Act requiring approval or sanction of the Joint Commissioner shall not apply. These provisions, therefore, make it clear that the Board may assign the power to any Income Tax Authority to exercise powers of the A.O. having regard to territorial area etc., or the Board may authorise or empower Pr. Director General, Pr. Chief Commissioner etc., to issue order in writing to

assign powers of the A.O. to other Authorities including Addl. Commissioner of Income Tax as Assessing Officer. Considering the provisions of Section 2(7A) of the I.T. Act, 1961, which defines the definition of the Assessing Officer would make it clear that Addl. Commissioner of Income Tax could function as an Assessing Officer when jurisdiction have been assigned to him by virtue of the directions or orders issued under section 120(4)(b) of the I.T. Act, 1961. However, in the present case the Revenue Department has failed to produce any Order or Notification in favour of Addl. CIT, Range-23, New Delhi to act as an Assessing Officer, despite giving sufficient opportunities. No order or direction of the Board or any other Authority have been produced on record under section 120(1)(2) and (4) of the I.T. Act, 1961, empowering the Addl. CIT, Range-23, New Delhi, to act as an Assessing Officer in the present case to pass the impugned assessment order. The Ld. D.R. contended that since it is mentioned in the assessment order that case was assigned to Addl. CIT, Range-23, New Delhi vide Order of the CIT, Delhi-VIII, New Delhi, Dated 09.12.2013, therefore, it is sufficient that Addl. CIT, Range-23, New Delhi, was having jurisdiction over the case of assessee. However, no Order or Notification in support of the above contention have been produced on record to satisfy the requirements of the Law. Mere mentioning of such Order Dated 09.12.2013 may not serve the purposes. The Ld. D.R. also relied upon Judgment of the Hon'ble Delhi High Court in the case of Pr. Commissioner of Income Tax vs. Mega Corporation Ltd., (supra), in which it is mentioned in para-2 that on 01.08.2007, a Notification was issued under section 120(2) conferring power upon Addl. CIT. Therefore, this Judgment would not support the case of the Revenue. It may be noted further that provisions of Section 124(3) of the I.T. Act would not be applicable in the case of the assessee because Addl. CIT, Range-23, New Delhi did not have jurisdiction over the case of the assessee. Therefore, there is no question of raising any objection before him. It may, however, noted that Section 124 of the I.T. Act would come into play when there was a direction or order issued under section 120(1)(2) of the I.T. Act and A.O. have been vested with the jurisdiction over the case of the assessee. In that event, if there is any dispute of the jurisdiction of the A.O, such question will be determined in accordance with the provisions of Section 124 of the Income Tax Act. However, in the present case, the Addl. CIT, Range23, New Delhi lacks in jurisdiction over the case of assessee. In the absence of any Order or Notification issued by the Board or any other Income Tax Authority in this behalf, contentions of Ld. D.R. are rejected. Considering the totality of the facts and circumstances of the case, we are of the view that Addl. CIT, Range-23, New Delhi do not have jurisdiction over the case of assessee and since he did not assume the jurisdiction legally and validly, therefore, the impugned assessment order framed by him is vitiated and illegal and without jurisdiction. In view of the above discussion, we set aside the Orders of the authorities below and quash the impugned orders. Resultantly, all additions stand deleted. The Additional Ground No.1 of appeal of assessee is allowed."

7. It is pertinent to note that this order of the aforesaid Delhi Tribunal has been approved by the Hon'ble Jurisdictional High Court in ITA 133/2021 dated 20.03.2024. For the sake of convenience, the order of Hon'ble Delhi High Court is reproduced herein:-

"ITA 133/2021

4. The Principal Commissioner impugns the order passed by the Income Tax Appellate Tribunal ["ITAT"] dated 25 September 2019 and has proposed the following questions of law for our consideration:

"(1)Whether the Ld. Income Tax Appellate Tribunal was correct in the eyes of the law in passing the impugned order, overlooking the provisions of law specifically clauses (a) and (b) sub-section (3) of Section 124 of the Income Tax Act, 1961, wherein it has been stated that no person can call in question jurisdiction of an Assessing Officer in case of noncompliance and/or after the period stipulated in clauses (a) and (b)?

(2)Whether the Ld. Income Tax Appellate Tribunal was justified in the eye of law and in the facts and circumstances of the present case, in holding the assessment-order being illegal, because it has been passed by the Assessing Officer without assuming valid jurisdiction as the case of the assessee was transferred to the Assessing Officer without passing an order under-section 120 of the Income Tax Act, 1961?

(3)Whether Hon'ble Income Tax Appellate Tribunal was correct in the eyes of law in passing the impugned order overlooking the judgements of Hon'ble High Court of Delhi (it's Jurisdictional High Court) in the case of Abhishek Jain Vs Income-tax officer (Writ Petition (Civil) No. 11844 of 2016) Dated 01/06/2018 and in the case of Commissioner of Income-tax Delhi-XVI Vs. S.S. Ahluwalia (Income-Tax Appeal No. 255/2002) Dated 14/03/2014?

(4)Whether the Ld. ITAT was justified in the eyes of law in not taking into consideration that the assessee is barred from questioning the validity of jurisdiction assumed by an Assessing Officer after the time stipulated, according to clauses (a) and (b) of sub-section (3) of section 124 of the Income Tax Act, 1961?"

5. Before us Mr. Maratha has essentially addressed submissions on the ambit of Section 124(3) of the Income Tax Act, 1961 ["Act"] to contend that since the respondent-assessee had failed to raise any question with respect to the jurisdiction of the Assessing Officer ["AO"] in accordance with

the provisions made in Section 124(3) of the Act, it would clearly not amount to an illegality nor would it lead to irreversible consequences. According to Mr. Maratha, the ITAT has clearly erred in holding the order to be void ab initio.

6. In our considered opinion, the provisions of Section 124(3) of the Act and the questions surrounding that provision would have warranted further consideration, provided the appellant had been able to establish that the Addl. CIT Range-23, New Delhi was duly empowered to act as the AO.

7. We note from the judgment rendered by the ITAT that the Addl. CIT Range-23 New Delhi is stated to have been assigned to be the AO by virtue of an order of the CIT dated 09 December 2013.

8. The ITAT however has noted that despite opportunity having been granted, the appellant had failed to place that authorisation for its perusal. It is the aforesaid aspect which has constrained the ITAT to observe that the mere mentioning of such an order in the assessment order which was framed would not suffice.

9. In view of the aforesaid, we find no ground to interfere with the views expressed by the ITAT. The appeal raises no substantial question of law and shall consequently stand dismissed."

8. We had given sufficient opportunities to the revenue to place on record, the authorization, if any, granted to the Addl. CIT conferring jurisdiction to frame the assessment in the manner known to law. The revenue could not utilize the said opportunity by furnishing the requisite details. Hence, the ratio decidendi of the coordinate bench of Delhi Tribunal and Hon'ble Jurisdictional High Court supra squarely applies to the facts of the instant case before us.

9. In case, if the revenue is able to place on record at a future date within the prescribed time as per the statute, any order, if any, passed u/s 120(4)(b) of the Act, liberty is given to the revenue to seek restoration of this appeal on this ground in the manner known to law. In view of the aforesaid observations and respectfully following the judicial precedents relied upon hereinabove, the additional ground raised by the assessee is hereby allowed and we declare that the assessment framed by the Addl.

CIT, Special Range-5, New Delhi for AY 2014-15 u/s 143(3) of the Act dated 19.12.2016 is void ab initio and hold as illegal and invalid order for want of jurisdiction. Accordingly, the entire assessment is hereby quashed. Hence, additional ground raised by the assessee is allowed.

10. Since, the entire assessment is quashed, the adjudication of other original grounds raised by the assessee becomes academic in nature and they are left open.

11. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 29/08/2025.

-Sd/-
(SUDHIR KUMAR)
JUDICIAL MEMBER

-Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated: 29/08/2025
A K Keot

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi