

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH, 'E': NEW DELHI**

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER

AND

SHRI AMITABH SHUKLA, ACCOUNTNAT MEMBER

**ITA No.2482/DEL/2024
[Assessment Year: 2012-13]**

M/s Vysya Infrastructure Ltd. E-09, Sector-Beta-1, Greater Noida, Gautam Budh Nagar, Uttar Pradesh-201306	Vs	DLC-CC(202)(4), DCIT/ACIT, Central Circle, Noida, 2 nd Floor, ARTO Complex, Sector- 33, Noida, ITNS-65, Income Tax Department, Uttar Pradesh-201307
PAN-AAACT8301		
Assessee		Revenue

Assessee by	Ms. Rano Jain, Adv. Shri Venkatesh Chourasia, Adv. and Ms. Mansi Jain, CA
Revenue by	Ms. Amish S Gupt, CIT-DR

Date of Hearing	19.01.2026
Date of Pronouncement	19.01.2026

ORDER

PER AMITABH SHUKLA, AM,

This appeal filed by the assessee is against order dated 20.03.2024 of the learned Commissioner of Income Tax(Appeals)-3, Noida, [hereinafter referred to as 'ld. CIT(A)] arising out of assessment order dated 28.12.2018 passed u/s 144 r.w.s. 144 of the Income Tax Act, 1961 pertaining to Assessment Year 2012-13. The word 'Act' herein this order would mean Income Tax Act, 1961.

2. At the outset, the ld. Counsel for the assessee, Ms. Rano Jain, invited our attention to the invalid notice under section 148 dated 30.03.2018 issued to the assessee for AY 2011-12. The ld. Counsel vehemently argued that the proceeding in assessee's case were initiated for AY 2012-13, for which year reasons were recorded and approval obtained by the competent authority to initiate proceedings under section 147. The ld. Counsel fiercely submitted that consequently the issuance of notice under section 148 dated 30.03.2018 issued to the assessee for AY 2011-12 has become fatal to the assessment order under section 147/144 dated 28.12.2018 passed by the ld. AO for AY 2012-13.

3. The ld. DR could not controvert the arguments of the ld. Counsel for the assessee and placed reliance upon the orders of the lower authorities.

4. We have heard rival submissions in the light of material available on record. Notice under section 148 r.w.s.147 forms the basis of an assessment proceedings and assumes the character of the foundation for the super structure called the assessment order. The Latin legal maxim *Sublato fundamento cadit opus* that corresponds to hypothesis that a superstructure does not survive on weak foundation is essential part of jurisprudence. This maxim literally translates to, "**If the foundation is removed, the superstructure falls**". It is a well-established principle in law, especially in cases where the initial action or underlying basis of a legal right is found to be invalid, causing all subsequent actions dependent on it to fail. Another related maxim with a similar meaning

is *Debile fundamentum fallit opus*, which translates to "Where there is a weak foundation, the work fails". As grounds of appeal are legal grounds raising the presumption of lack of jurisdiction with the Ld.AO to pass the assessment order as well as validity of assessment, we would like to take the same first. It is trite law that a superstructure does not survive on weak foundation. In the instant case as the notice under section 148 per se is defective being issued for the wrong assessment year. The consequent assessment order under section 147/144 dated 28.12.2018 passed by the ld. AO for AY 2012-13 cannot survive. Accordingly, we quash the assessment order dated 28.12.2018 is quashed.

5. The assessee has succeeded on its legal grounds qua jurisdictional sufficiency, all the other grounds of appeal raised by the assessee on merits of the addition, have become academic in nature and hence left open.
6. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 19th January, 2026.

Sd/-
[SATBEER SINGH GODARA]
JUDICIAL MEMBER

Dated: 20.01.2026

Shekhar

Copy forwarded to:

1. Appellant
2. Respondent
3. PCIT
4. CIT(A)
5. DR

Sd/-
[AMITABH SHUKLA]
ACCOUNTANT MEMBER

Asst. Registrar,
ITAT, New Delhi,