IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'F', NEW DELHI

Before Sh. Satbeer Singh Godara, Judicial Member
&
Sh. Naveen Chandra, Accountant Member

ITA No. 2427/Del/2019 : Asstt. Year: 2008-09

Kamal Joshi, B-2/51A, B-2 Block, Vijay Enclave, Near Shiv Market, Budh Bazar Road, New Delhi-110045	Vs	Income Tax Officer, Ward-41(5), New Delhi-110002
(APPELLANT)		(RESPONDENT)
PAN No. AJRPJ3880D		

Assessee by : Ms. Bharti Sharma, Adv.,
Sh. Yatish Sharma, Adv. &
Sh. Vinod Rawal, CA
Revenue by : Ms. Harpreet Kaur Hansra, Sr. DR

Date of Hearing: 26.02.2026	**Date of Pronouncement: 22.04.2026**

ORDER

Per Satbeer Singh Godara, Judicial Member:

This assessee's appeal for Assessment Year 2008-09 arises against the CIT(A)-14, New Delhi's order dated 02.01.2019 in case No. 373/17-18/CIT(A)-14, New Delhi/10389, in proceedings u/s 144/148 of the Income Tax Act, 1961 (in short "the Act").

2. Heard both the parties at length. Case file perused.

3. We advert to the first and foremost issue of validity of the impugned reopening itself. A perusal of the case file indicates that the learned assessing authority had set into motion the

same against the assessee for the purpose of assessing him regarding his deposits of Rs.1,65,20,000/- made in M/s HDFC bank, Gurgoan. We make it clear that there is no dispute between the parties that the assessee had received the same from M/s Albina Properties Ltd. in lieu of sale/transfer of his land in question on 12.03.2008 which has been fairly admitted in the assessee's oath itself. There is further no quarrel that the Assessing Officer thereafter framed his section 144/148 assessment in the assessee's hands treating the above receipt as unexplained u/s 68 of the Act followed by a further addition of Rs.17,63,500/- under the very statutory provision. The assessee filed his lower appeal wherein the learned CIT(A) has changed the head of the former receipt from unexplained to his business income and uphold the latter addition of Rs.17,63,000/-.

3.1 This is what leaves the assessee aggrieved.

4. It is in this factual backdrop that there arises the above first and foremost issue of validity of the reopening for the precise reason that the learned CIT(A) has himself treated his deposits of Rs.1.65 (in crores) admittedly explained since representing the assessee's business income. We thus quote CIT

vs. Shapoorji Pallonji Mistry (1962) 44 ITR 891 (SC), Sardari Lal & Co. (2001) 251 ITR 864(Del.) and CIT vs. Union Tyres (1999) 240 ITR 556(Del) that such a jurisdiction for changing head of income is nowhere vested with the learned CIT(A); and, therefore, the business income addition made in the assessee's hands deserves to be deleted only. We order accordingly.

5. Faced with this situation, we are of the considered view that the impugned reopening also does not deserve to be concurred with ones the sole reason therein (supra) stands declared as a nullity. We thus quote CIT(E) Vs. B.P. Poddar Foundation For Education (2022) 448 ITR 695 (Cal.) and ATS Infrastructure Ltd. vs. ACIT (2024) 166 taxmann.com 61 (Delhi) to quash the same in very terms.

6. The Revenue at this stage seeks to raise yet another objection that not only we ought to uphold the business income addition but also the latter issue of section 68 addition of Rs.17,63,000/-. We find no merit in it's stand once the impugned reopening based on the Assessing Officer's sole reason already stands quashed. The impugned latter addition must also follow the suit therefore. We thus reject the

Revenue's vehement arguments in support of the impugned reopening which is hereby quashed.

7. All other pleadings between the parties stand rendered academic.

8. This assessee's appeal is allowed.

Order Pronounced in the Open Court on 22/04/2026.

Sd/-
(Naveen Chandra)
Accountant Member
Dated: 22/04/2026
Subodh Kumar, Sr. PS
Copy forwarded to:
1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Sd/-
(Satbeer Singh Godara)
Judicial Member

ASSISTANT REGISTRAR