

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI “B” BENCH: NEW DELHI**

**BEFORE SHRI SUDHIR KUMAR, JUDICIAL MEMBER &
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

**ITA No.1449/Del/2023
[Assessment Year : 2019-20]**

Naveen Goel 4/44, Roop Nagar, Delhi-110007. PAN-AAJPG6456B	vs	ACIT Central Circle-20 Delhi
APPELLANT		RESPONDENT
Appellant by	Shri Pawan Ved, Adv. Shri Mohit Gupta, CA & Sh.Mirza Muhiuddin Baig, CA	
Respondent by	Ms. Pooja Swaroop, CIT DR	
Date of Hearing	18.02.2026	
Date of Pronouncement	01.04.2026	

ORDER

PER MANISH AGARWAL, AM :

This appeal is filed by the assessee against the order of Id. Commissioner of Income Tax (Appeals) – 27, New Delhi [Id. CIT(A)] dated 29.03.2023 arising out of the assessment order dated 12.04.2021 passed u/s 143(3) of the Income Tax Act, 1961 (the Act) for A.Y. 2019-20.

2. Brief facts of the case are that assessee is an individual and e-filed his return of income on 31.10.2019, declaring total income of Rs. 17,91,980/-. A search and seizure action was carried out u/s 132 of the Act on 04.12.2018 in Faquir Chand Lockers & Vaults Pvt. Ltd. group cases where assessee is having locker No. 307 at 6704A, Khari Baoli, Delhi. The case of the assessee was centralized in terms of the

order passed u/s 127 of the Act, and notice u/s 143(2) of the Act was issued on 22.10.2020. Thereafter the notices u/s 142(1) alongwith detailed questionnaire were issued from time to time which were duly replied. The assessee is engaged in the business of Kirana items and is a partner in M/s Vishambhar Nath Basant. In the said locker, cash of Rs. 1,20,00,000/- was found. The claim of the assessee is that the said cash was income of the assessee earned from the commission as well as regular business and was kept in the locker for safe custody since the said transactions were carried out by the assessee out of books therefore, the same was the income of the for the respective assessment year however, the AO has not accepted the claim of the assessee and treated the assessee as the owner of the said cash as the assessee is the owner of the said locker and accordingly addition was made as his unexplained income u/s 69A of the Act r.w.s. 115BBE of the Act and the total income of the assessee was assessed at Rs. 1,37,91,980/-.

3. Against the said order, assessee filed an appeal before Id. CIT(A) who vide order dated 29.03.2023 has dismissed the appeal of the assessee. The Id. CIT(A) also held the appeal as delayed by 262 days and has not condoned the delay.

4. Aggrieved by the said order, assessee is in appeal before the Tribunal by taking various grounds of appeal against the merits of the additions made and uphold by the lower authorities. The assessee during the course of hearing vide letter dated 29.01.2026 has also filed additional grounds of appeals challenging the validity of the assessment order being passed without jurisdiction as the

transfer of jurisdiction in terms of order u/s 127 of the Act dated 15.10.2020 was invalid, nonest and void-an-abitio. Since the additional grounds taken by the assessee are purely legal in nature and requires no verification therefore, it is requested to admit the same. Reliance is placed on the judgement of Hon'ble Supreme Court in the case of **NTPC Ltd. Vs. CIT** reported in **229 ITR 383 (SC)**. Further, the assessee has taken another additional ground with respect to the issue of notice u/s 143(2) dated 22.10.2020 which according to assessee is barred by limitation. The assessee also challenged the approval granted u/s 153D of the Act being mechanical given for various assessment years by a common order.

5. On the other hand, ld. CIT-DR for the Revenue vehemently opposed the admission of the additional grounds of appeal and submits that the order passed u/s 127 is not applicable therefore, the additional ground of appeal taken at this stage, deserves to be hold invalid. Regarding another additional grounds of appeal, the ld. CIT-DR submits that this ground required verification on the part of the AO, therefore, the same should not be admitted.

6. First, we dealt with the issue of limitation in filing the appeal before ld. CIT(A) where ld. CIT(A) uphold that the appeal of the assessee which is delayed by 262 days and no proper explanation was given for such delay. From the record, it is observed that the order under challenge was passed by the AO on 12.04.2021 and the appeal was filed on 21.01.2022. Both these dates are falling during the period of COVID-19 and the **Hon'ble Supreme Court** in terms of its **Suo Motu Writ Petition (Civil) No.3 of 2020** in **Re: Cognizance**

For Extension Of Limitation vide order dated **08.03.2021** has condoned the delay occurred during the period from 15.03.2020 to 28.02.2022 and the date of passing of assessment order and filing of appeal in the instant case are being falling between the dates during which the delay had been condoned by the Hon'ble Supreme Court, therefore, in our considered opinion, the appeal of the assessee was not delayed before Id. CIT(A) and thus, such observations of Id. CIT(A) are excluded and the appeal is treated as a valid appeal.

7. Now coming to the additional grounds of the appeal taken wherein the assessee has challenged the validity of the assessment order being passed without jurisdiction. The additional grounds of appeal being purely legal in nature and all the facts supporting such additional grounds have already been emanated from the records available before us, therefore, there is no requirement of any verification on the part of the Assessing Officer and accordingly, the same are hereby admitted for adjudication.

8. Firstly, we take the **additional Ground of appeal No. 1** taken by the assessee wherein assessee has challenged the validity of the jurisdiction of the Assessing Officer in terms of order passed u/s 127 of the Act dated 15.10.2020 which according to assessee is invalid, nonest and void-ab-initio and according to the assessee, all the subsequent order passed based on such invalid order u/s 127 deserves to be quashed.

9. Before us, Id. AR for the assessee submits that the case of the assessee was transferred from the jurisdiction ACIT, Circle 34(1),

Delhi to the ACIT, Central Circle 20, Delhi in terms of the order passed u/s 127 dated 15.10.2020, copy of the said order is placed at the paper book pages 426 filed by the assessee. The ld. AR submits that the assessee is located in metro city and declared his return of income below Rs. 20 lacs for AYs 2013-14 to 2020-21 and as per the CBDT instructions dated 31.01.2011, prescribing the limits for assessing the case by DCIT / ACIT / ITO, the case of the assessee should be with ITO. However, in the instant case as per the order u/s 127, the jurisdiction of the assessee is transferred from ACIT Circle 34(1), Delhi to DCIT, Circle 20, Delhi whereas it should be from the ITO, Ward 34, Delhi to ACIT/DCIT of Central Circle, Delhi therefore, assuming the jurisdiction by the Assessing Officer in the instant case i.e. ACIT/DCIT, Circle 20, Delhi is invalid and thus, consequent order passed be quashed. He prayed accordingly. In this regard, ld. AR placed reliance on the various judgements which are placed in the written submission filed.

10. On the other ld. CIT-DR for the Revenue submits that the order u/s 127 was passed by ld. PCIT and since this order is not applicable in terms of section 246A of the Act therefore, the assessee cannot take this ground of appeal at this stage before the Hon'ble Tribunal and requested for the rejection of this ground of appeal.

11. Heard the parties and perused the material available on record. It is observed that the return of income was filed by the assessee for various assessment years from AY 2013-14 to 2020-21 wherein return of income was declared below the Rs. 20 lacs, copy of the same returns are placed on the paper book at pages 8 to 16. It is further

observed that in terms of CBDT instruction No. 1/2011 dated 31.01.2011, the jurisdiction over the assessee was with the Income Tax Officer since the income declared in the return of income filed was below Rs. 20 lacs, however, while transferring the jurisdiction by the ld. PCIT in terms of order dated 24.12.2020 passed u/s 127 of the Act, the ld. PCIT has transferred the case of the assessee from ACIT, Circle 34(1), Delhi to ACIT, Central Circle- 20, Delhi. It appears that while transferring the jurisdiction of the assessee from one Assessing Officer to another Assessing Officer in terms of the power conferred upon him u/s 127 of the Act, the ld. PCIT has made an error of fact which resulted into transfer of case from wrong jurisdiction. However, this fact was never challenged by the assessee before the lower authority and the order u/s 127 of the Act is not applicable therefore, the Tribunal has no jurisdiction to decide this ground of appeal. Accordingly, we restrained ourselves in making any comments over the arguments taken by the assessee and therefore, this ground of appeal of the assessee is dismissed.

12. The **additional Ground of appeal No. 2** of the assessee is regarding assuming jurisdiction u/s 143(2) delayed and therefore, the consequent order passed deserves to be hold as invalid and be quashed.

13. Heard the parties at length and perused the material available on record. As could be evident from the facts that the assessee has filed his return of income u/s 139(1) of the Act on 31.10.2019 and in terms of the provision of section 143(2) of the Act, the said notice could be issued on or before the expiry of the 06 months from the

end of the relevant assessment year which in the instant case has expired on 30.09.2020, however, the notice u/s 143(2) was issued on 20.10.2020 which is evident from the para 2 of the Assessment Order itself. Further, a copy of the notice u/s 143(2) issued in the case of the assessee is placed at page 21 and 22 of the written submission of the assessee as per which the said notice was issued by the ACIT, Central Circle 21, Delhi. It is further observed that the order u/s 127 transferring jurisdiction to the AO i.e. the ACIT, Central Circle, Delhi was passed on 24.12.2020 however, the said AO has issued the notice u/s 143(2) of the Act on 22.10.2020 i.e. much prior to the date of having jurisdiction over the assessee's case. Since the notice u/s 143(2) is issued beyond the time limit prescribed under the Act therefore, the said notice is barred by limitation and consequent order passed u/s 143(3) of the Act is invalid. As observed above, the said notice is also issued by the Assessing Officer without having the jurisdiction over the assessee as the order u/s 127 giving the jurisdiction was passed at a later stage, therefore, such notice issued u/s 143(2) dated 22.10.2020 by the ACIT, Central Circle 21, Delhi is not only delayed but also without jurisdiction which rendered the consequent assessment order passed u/s 143(3) dated 12.04.2021 as invalid and therefore the same is hereby, quashed. Accordingly, additional Ground of appeal No. 2 of the assessee is allowed.

14. Since we have already allowed assessee's additional ground of appeal and quashed the assessment order passed on the issue of jurisdiction, the other ground taken on the merits of the addition and other additional grounds of appeal become academic.

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

Order pronounced in the open Court on 01.04.2026.

Sd/-

**(SUDHIR KUMAR)
JUDICIAL MEMBER**

Sd/-

**(MANISH AGARWAL)
ACCOUNTANT MEMBER**

Date:-01.04.2026

Amit Kumar, Sr.P.S

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ITAT, NEW DELHI