IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'G': NEW DELHI

BEFORE SHRI RAMIT KOCHAR, ACCOUNTANT MEMBER
AND
SHRI YOGESH KUMAR US , JUDICIAL MEMBER

ITA No.5875/DEL/2025
(ASSESSMENT YEAR: 2015-16)

Accurate Pressings 24-A/2, Industrial Area, Faridabad-121001 Haryana ***PAN-AANFA2688P***	v.	The ITO Ward 1(1), Faridabad Haryana.
(Appellant)		**(Respondent)**

Assessee by	Shri Anil Kumar Gupta, CA
Department by	Shri Ravi Kant Choudhary, Sr. DR
Date of Hearing	28.04.2026
Date of Pronouncement	21.07.2026

ORDER

PER RAMIT KOCHAR, AM:

This appeal in ITA No. 5875/Del/2025 for Assessment Year: 2015-16 has arisen from the learned CIT(A)'s appellate order dated 31.07.2025 u/s 250 of the Income-tax Act, 1961 (hereinafter called "the Act") in DIN No: ITBA/APL/M/250/ 2025-26/1079256579(1), which in turn has arisen from the assessment order dated 29.03.2022 passed by the AO u/s 147 r.w.s 144 r.w.s. 144B of the 1961 Act (DIN No. ITBA/AST/S/147/2021-22/1041965040(1)).

2. Brief facts of the case are that the assessee is a partnership firm. The case of the assessee was reopened by Revenue by invoking provisions of Section 147/148 of the 1961 Act, inter-alia, on the grounds that while computing the taxable income , the assessee has also made deduction of Rs. 54,10,183/- from its profit on account of partners capital waived off(we will confine ourselves to this disputed issue as other issue based on which reopening of the concluded assessment was made is not relevant for us as no

additions to the income of the assessee was made by the AO on this other ground). No details whatsoever have been furnished by the assessee with respect thereto. Thus as per Revenue , an amount of Rs. 54,10,183/- has also escaped assessment. The AO after recording satisfaction as to reasons to believe that the income has escaped assessment, proceeded to reopen the concluded assessment after obtaining approval of competent authority i.e. ld. PCIT , wherein notice u/s 148 dated 30.03.2021 was issued by the AO to the assessee. The assessee did not file its return of income in pursuance to notice issued by the AO u/s 148 of the 1961 Act. Statutory notices u/s 142(1) and SCN were issued by the AO to the assessee from time to time during reassessment proceedings. The assessee participated in reassessment proceedings. The AO observed that while computing the taxable income , the assessee has made a deduction of Rs. 54,10,183/- from its profit on account of partners capital waived off. The assessee did not submitted any details whatsoever before the AO with respect thereto.The AO issued SCN dated 27.03.2022 to the assessee. The assessee submitted that Mr. Puneet Ahuja was a partner in the firm from financial year 2006-07 to 2012-13, Profit after tax was distributed every year to the partners as per their profit sharing ratio. At the end of the financial year 2012-13, the partner left the firm and his profit share was transferred to payable account. The assessee submitted that the payable amount was not paid based on mutual understanding among the partners, and the same amount remained outstanding in 2012-13. It was further submitted that as the amount was not supposed to be paid, the payable amount was written off by a transfer entry routed through profit and loss account is not an income, and rather a transfer entry only, and hence the amount is shown as capital waived off from the income in the income tax return. The assessee did not offer this partner capital account waived off to tax in return of income originally filed u/s 139.

2.2 The ld. AO rejected the contentions of the assessee wherein the ld. AO observed that the partners profit has not been paid instead credited to the profit and loss account. The liability to pay the partners his share of profit has ceased. Hence as per the AO , it is to be treated as income of the firm. The AO observed that the rationale of making a deduction of Rs. 54,10,183/- from its profit and loss account of partners capital waived off is not understood. Thus , the AO made the additions by rejecting the contentions of the assessee.

3. Aggrieved, the assessee filed first appeal with ld. CIT(A) who dismissed the appeal of the assessee. While adjudicating the legal grounds raised by the assessee wrt reopening of the concluded assessment as well recoding of the reasons and approval sought by the AO from competent authorities before reopening of the assessment by invoking provisions of Section 147/148 of the 1961 Act , the ld. CIT(A) observed that the assessee failed to file return of income in pursuance to notice u/s 148 of the 1961 Act. The ld. CIT(A) observed that the AO has duly recorded reasons for reopening of the assessment. Approval has been obtained by the AO from the competent authority. The assessee did not file return of income in pursuance to notice u/s 148. The ld. CIT(A) observed that the AO has initiated penalty u/s 271F for non compliance with the law. The ld. CIT(A) observed that reasons recorded for reopening of the concluded assessment were duly furnished by the AO to the assessee.The reasons recorded by the AO are disclosed in the body of the reassessment order. The ld. CIT(A) observed that there is no infirmity in the reassessment order passed by the AO. The ld. CIT(A) relied upon the judgment and order of *Hon'ble Andhra Pradesh High Court in the case of GVK Gautami Power Limited v. ACIT (2011) 336 ITR 451(AP) ; Hon'ble Supreme Court judgment and order in the case of Phool Chand Bajrang Lal(1993) 203 ITR 456(SC) ; CIT v.India Terminal Connector System Limited 208 Taxman 231(Delhi) ; Raymond Woolen Mills Limited v. ITO (1999) 236 ITR 34(SC) ; AGR Investment Limited v. Addl. CIT (2011) 333 ITR 146* . On merits, the ld. CIT(A) observed that the assessee has claimed deduction of Rs. 54,10,183/- from its profit on account of partners capital waived off. The ld. CIT(A) observed that the assessee is contending that at the end of 2012-13 , Shri Puneet Ahuja left the partnership firm and his profit share was transferred to payable account of the firm. The ld. CIT(A) observed that

the sum was claimed to be not paid on mutual understanding and that it was capital in nature. This amount was now written off by a transfer entry routed through P&L Account of the firm and this was claimed to be merely a transfer entry. The treatment given to this payable amount is clearly not in accordance with the Accounting Standards and policy. When the said amount is shown as not paid then the same can be written off or removed from the books of accounts only by treating the said amount as income of the assessee's firms , and the action of the AO by treating the same as income of the assessee to the tune of Rs. 54,10,183/- was sustained by ld. CIT(A).

4. Now, the assessee has filed an appeal with the Tribunal. Heard both the parties.

5. We have heard both the rival parties and perused the material on record. The assessee is a partnership firm. The assessee is engaged in the business of manufacturing of automotive parts. The assessee filed its return of income originally declaring Income of Rs. Nil on 29.09.2015 for the impugned assessment year 2015-16. The case of the assessee was originally selected for framing **limited scrutiny** under CASS, and notice u/s 143(2) dated 19.09.2016 was issued by the AO. Statutory Notices u/s 142(1) along with questionnaire were issued by the AO during the original assessment proceedings conducted u/s 143(2) read with Section 143(3). The assessee participated in the assessment proceedings, which resulted in accepting of the returned income by the AO, and no additions were made by the AO in the assessment order . Thereafter, the case of the assessee was reopened by the AO by invoking provisions of Section 147/148 of the 1961 Act. The reasons were recorded by the AO, which reads as under:

> *" From the examination of the case records, it is found that sales turnover as per VAT R1 Reports of the four quarters during the F.Y.2014-15 was Rs. 25,61,72,820/- . The material consumed in manufacturing and operation was Rs. 22,00,42,759/- (Raw Material of Rs. 19,56,92,477/- , outside job work of Rs. 2,27,12,442/- and consumable stores of Rs. 16,37,840/- . As per schedule H of the profit and loss account the expenditure on outside jobwork done by the assessee was Rs. 2,27,12,442/- . The assessee has claimed TDS amounting to Rs. 26,76,280/- in the computation of total taxable income. This leads to the inference*

> *that the assessee has also received contract income on which TDS has been made @2% which comes to Rs. 13,38,39,797/- [2676280X100/2=133839797].*
>
> *Thus the gross turnover of the assessee should have been taken at Rs.39,00,12,617/- . Thus the assessee has suppressed its profit by an amount of Rs. 13,38,39,797/-.*
>
> ***Besides this the while computing the taxable income the assessee has also made a deduction of Rs. 54,10,183/- from its profit on account of partners capital waived off. No details what-so-ever have been furnished by the assessee. Thus, an amount of Rs. 54,10,183/- has also been escaped assessment."***

Thus, the AO has reasons to believe that income has escaped assessment. The AO obtained the prior approval of the 'Competent Authority' i.e. ld. PCIT u/s 151. The AO issued notice u/s 148 dated 30.03.2021 to the assessee, requiring assessee to file return of income in pursuance to aforesaid notice. **The assessee did not file return of income in pursuance to notice u/s 148 issued by the AO.** However, the assessee participated in reassessment proceedings. The AO supplied reasons recorded for reopening of the assessment, to the assessee, vide SCN dated 27.03.2022 . This fact is admitted by the assessee vide its submissions filed before ld. CIT(A). There was no additions made with respect to alleged suppressed profits as recorded by the AO in the reasons recorded for reopening, while additions has been made with respect to second issue concerning deduction claimed from taxable income wrt partners capital waived off . The case of the assessee was originally selected for framing limited scrutiny assessment under CASS . Thus, it was not a case of complete scrutiny assessment. No additions were made by the AO vide framing original assessment u/s 143(3). The case of the assessee was reopened , inter-alia, on the grounds that the assessee claimed deduction of Rs. 54,10,183/- from its profits on account of partners capital waived off, and no details whatsoever was furnished by the assessee. Since, this prima-facie attracts provisions of Section 41(1) or 28(iv) , and the assessee has not offered the same for taxation and no details being furnished to the Revenue, thus, prima-facie reasons for forming a belief that income has escaped assessment are valid reasons . There is a live link between reasons recorded and formation of belief that income has escaped assessment. The assessee had not made disclosure as to basis on which it is claiming exemption/deduction from chargeability to income-tax, albeit amount waived off is allegedly credited to its audited P&L account as 'Unsecured Loan Waived Off-Rs. 72,92,810/-"(Page 105/PB) in Schedule G 'Other Income', but while preparing computation of income chargeable to tax, the assessee has claimed deduction to the tune of Rs.54,10,183/-(PB/Page 95) towards 'Partners Capital Waived Off not taxable'. Thus, the assessee has not made true and complete while filing return of income of the disclosure with respect to the aforesaid deduction claimed, as no details and reasons for claiming exemption were filed by the assessee. Albeit the reopening of the assessment was done after 4 years and originally assessment was framed u/s 143(3) , first proviso to Section 147 is applicable as the assessee has failed to make full and true disclosure of all material facts necessary for claiming exemption u/s 41(1) and 28(iv). Reference is drawn to the judgment and order of Hon'ble Supreme Court in the case of *Sanand Properties Private Limited (2026) 186 taxmann.com535(SC)* . Thus, mere claiming deduction in computation of income , or even production of books of accounts from where AO could have found that the said income is chargeable to tax but not offered to tax is not sufficient. The assessee ought to have made full and true disclosure that it is claiming deduction wrt amount lying to the credit of capital account of a retired partners which is offered to tax albeit credited to P&L account owing to such amount being not taxable under the specified provisions of the 1961 Act, but no such disclosure was made. Thus, we observed that the reopening was rightly done by the AO. At the stage of initiating of reassessment proceedings by recording of reasons for reopening of the assessment, conclusive evidence of escapement of income is not required but a prima facie belief is required based on material on record that income has escaped assessment. Thus reasons to believe that income has escaped assessment ought to have live link with the reasons recorded by the AO, which in the instant case do have, we have observed the said reasons recorded have live link with the formation of believe that income has escaped assessment. Reference is drawn to provisions of Section 41(1) and 28(iv) of the 1961 Act. Further, the assessee is contending that the AO has not specified the competent authority who has approved the reopening. We have observed that in notice issued by the AO u/s 148 dated 30.03.2021(Page 125/PB) , it is clearly mentioned that ld. PCIT has given the approval, which is an authority specified u/s 151(1) of the 1961 Act. Thus, this contention of the assessee lacks merit. The assessee did not file its return of income in pursuance of notice issued by the AO u/s 148. Reference is drawn to judgment and order of *Hon'ble Supreme Court* in the case of *GKN Driveshafts(India) Limited reported in (2003) 259 ITR 19(SC)*. The proper course for the assessee was to have filed return of income in pursuance to notice issued u/s 148 , if it so desires to seek reasons for reopening and issuance of notice u/s 148. The AO was then bound to supply reason for reopening of the assessment. The assessee could then have filed objections to reopening of the assessment, and the AO was bound to have disposed off the objections by passing the speaking order. But, in the instant case, the assessee never filed return of income in pursuance to notice issued u/s 148. Thus, the contentions of the assessee that the AO provide reasons at the fag end of limitation lacks merit. Thus, we hold that the assessment of the assessee was rightly reopened by the AO by invoking provisions of Section 147/148 of the 1961 Act. The contentions of the assessee that the AO has not issued notice u/s 143(2) also lacks merit, as the assessee never filed return of income in pursuance to notice issued by the AO u/s 148. So far as merit of the additions are concerned, we have observed that the assessee has credited Rs. 72,92,810/- as 'Other Income' being 'Unsecured Loan waived off' in its Audited Profit and Loss Account(Page 100 and 105 of PB). It is observed that while preparing computation of income (Page 163 of PB), the assessee has deducted Rs. 54,10,183/- from taxable income on the grounds of 'Partners capital waived off not taxable' . During reassessment proceedings as well before ld. CIT(A), the assessee has claimed that Mr. Puneet Ahuja, partner retired in

2012-13, and it is the capital account being profit share after tax which was credited to this capital account of Mr. Puneet Ahuja having balance of Rs. 54,10,183/-, and as per mutual understanding, this amount was not payable and hence the same was credited to Profit and Loss as unsecured loan waived off. On retirement of Mr. Puneet Ahuja , it is claimed that capital account is converted into unsecured loan account, no interest was payable on it and ultimately it is credited to P&L Account being waived off. There are no documents/evidences etc available on records to verify the contentions of the assessee as the assessee has not filed any evidences/documents etc to this effect. Thus, what constitute this payable account over a period of time since Mr. Puneet Ahuja joined as partner till his retirement from the assessee's firm and thereafter , is not available on record. It is also not available on record whether any interest on capital was credited to partners capital account or any salary was credited to the said acoount, of which deduction was obtained by the assessee while computing income of the earlier years , is also not on record. Further, there is no document/evidences on record as to the mutual understanding arrived at by the assessee with Mr. Puneet Ahuja wrt waiving of said amount. Further, retirement deed is also not on record. Neither the AO nor ld. CIT(A) has went on to look into in details as to the chargeability to tax of the same under the provisions of the 1961 Act, rather both rejected the contentions of the assessee and brought the same to tax. Both the authorities passed cryptic orders rejected the contentions of the assessee without even specifying the relevant provision of the 1961 Act under which the said amount is chargeable to tax and reasons thereof to bring it within ambit of tax. This is an irregularity which is curable , and not an illegality. Since, the assessee is claiming the said amount to be exempt from tax, onus is on the assessee to file complete details to demonstrate through cogent material that the said amount is not chargeable to tax within the ambit and mandate of the 1961 Act. Thus, it will be fair and appropriate on the facts and circumstances of the case and in the interest of justice to restore the matter back to the file of the AO for denovo reassessment on merits of the additions made by the AO , in accordance with law on merits after providing opportunity of being heard to the assessee in accordance with law. Evidences filed by the assessee in its support shall be admitted by the ld. AO. Needless to say that the AO shall pass detailed order specifying the chargeability to tax of the same amount including relevant provision within which the said sum is chargeable to tax , if at all the same is chargeable to tax within the ambit of the 1961 Act. The AO shall pass denovo assessment order on the merits of the additions unhindered by any of the observations made by us in this order. We order accordingly.

6. In the result, the appeal filed by the assessee is partly allowed for statistical purposes.

Order is pronounced in the Open Court on 21.07.2026

Sd/-
(YOGESH KUMAR US)
JUDICIAL MEMBER

Sd/-
(RAMIT KOCHAR)
ACCOUNTANT MEMBER

Dated: 21.07.2026

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

ASSISTANT REGISTRAR
ITAT NEW DELHI