

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

BEFORE SHRI ANUBHAV SHARMA, JUDICIAL MEMBER, AND  
SHRI NAVEEN CHANDRA, ACCOUNTANT MEMBER

ITA No. 1353/DEL/2025 [A.Y 2010-11]

Late Shri Duleechanda  
Through L/H Shri Rajendra Chaudhary  
H. No. 174, Village Duriyal  
Post Kachera, Distt Gautam Budh Nagar  
Uttar Pradesh

Vs. The I.T.O  
Ward 1(2)  
Ghaziabad

PAN - BGEPD 9796 F

(Appellant)

(Respondent)

Assessee By : Shri Sahil Sharma, Adv  
Shri Sanjay Parashar, Adv

Department By : Shri Om Prakash, Sr. DR

**Date of Hearing : 12.12.2025**

**Date of Pronouncement : 16.01.2026**

PER NAVEEN CHANDRA, AM :-

This appeal by the assessee is directed against the order of the NFAC, Delhi dated 04.12.2024 pertaining to A.Y 2010-11.

2. The ld. counsel for the assessee has filed an application for condonation of delay. Having perused the condonation petition, we find

that the reason for delay in filing the appeal is the ill health of the assessee for which he has filed an affidavit alongwith medical certificates, to be plausible. Hence the assessee has sufficient cause for not filing the appeal in time. Accordingly, we condone the delay and admit the appeal.

3. The grounds raised by the assessee read as under:

**"1. That on the facts and circumstances of the case and in law, the impugned order dated 18.12.2017 passed by the Assessing Officer ("AO") u/s 144 r.w.s 147 of the Income Tax Act, 1961 ("the Act") imposing an addition of Rs. 1,08,00,000/- is arbitrary, bad in law and liable to be quashed.**

**2. That on the facts and circumstances of the case and in law, the impugned assessment order dated 18.12.2017 passed u/s 144 r.w.s 147 of the Act is null and void ab initio, as it has been passed by AO who lacked the requisite statutory jurisdiction under Section 120 r.w.s 124 of the Act.**

**3. That on the facts and circumstances of the case and in law, the reasons to believe recorded by a non-jurisdictional AO suffers from an incurable defect and renders the income escaping assessment proceedings non-est in the eyes of law.**

**4. That on the facts and circumstances of the case and in law, the CIT(A) vide order dated 04.12.2024 passed u/s 250 of the Act, erred in setting aside the impugned proceedings to the AO, who lacks jurisdiction over the case.**

5. XXX

6. That on the facts and circumstances of the case and in law, the approval granted by the competent authority u/s 151 of the Act is mechanical in nature lacking independent application of mind, thereby rendering the income escaping assessment proceedings legally invalid and liable to be quashed.

7. That on the facts and circumstances of the case and in law, the "reasons to believe" is vague, arbitrary, being based upon borrowed satisfaction, thereby vitiating the income escaping assessment proceedings."

4. In addition to the above grounds, the assessee has also filed an additional legal ground of appeal which reads as under:

"That based on the facts and circumstances of the case and in law, the assessment order dated 18.12.2017 issued u/s 144 r.w.s 147 passed jointly in the name of Shri Duli Chand & Sh. Dharmender Chaudhary as an Association of Persons is arbitrary and illegal thereby rendering the said order non-est in the eyes of law"

5. The ld. counsel for the assessee vehemently submitted that the aforesaid additional ground of appeal purely raises a legal issue. In view of the above, the additional ground of appeal calls for being admitted and adjudicated on merits in terms of the discretion vested u/r 11 of the Rules. The ld. counsel for the assessee placed reliance is also placed on decision of the Hon'ble Supreme Court in the case of *National*

*Thermal Power Co. Ltd. vs CIT: (1998] 229 ITR 383 and Jute Corporation of India vs CIT: [1991] 187 ITR 688.*

6. The ld. counsel for the assessee further submitted that the case of the assessee was reopened u/s 147 and reasons recorded for reopening was under the status of an individual. However, the assessment order was passed under the status of an AOP. Therefore, the assessment order is bad in law.

7. Per contra, the ld. DR pointed out that the appeal memo is under a different name i.e. Shri Rajendra Chaudhary and the appeal filed by the assessee before the ITAT is in the name of individual.

8. Since the additional ground raised goes to the root of the matter, we decided to adjudicate it first.

9. After hearing both the parties and perusing the relevant material on record, we find that AO has framed the reassessment order in the name of Shri Duleechanda and Dharmender Chaudhary and the status of the assessee adopted by the AO, is that of AOP. We also note that as per the information received, the Assessing Officer found that Late Shri Duleechanda had deposited cash to the tune of Rs. 1,08,00,000/- in the SB Account held in his name in F.Y. 2009-10 relevant to A.Y 2010-11. Thereafter, on the basis of the said information, the AO reopened the

case of Late Shri Duleechanda by recording the reasons u/s 147 of the Act under the status of an individual.

10. However, the Assessing Officer while framing reassessment order u/s 144 r.w.s 147, made an addition of Rs. 1,08,00,000/- in the hands of Shri Duleechanda and Shri Dharmender Chaudhary in the status of AOP.

We note that the AO never started any proceedings against Shri Dharmender Chaudhary for reopening his case u/s 147 of the Act. We find that the reopening u/s 147 is in name of Duli Chand in the status of Individual and thereafter assessment is framed on Duli Chand and Dharmender Choudhary, in the status of AOP, which is not permissible under the law. In view of the same, we are of the considered view that the reassessment order u/s 144/147 of the act is invalid, vitiated and liable to be quashed. The reassessment order passed in the status of AOP, is accordingly quashed as bad in law and the addition made is, therefore, directed to be deleted. The additional ground of the assessee is allowed.

11. Since we have decided the issue on legal ground, we do not find it necessary to dwell into the merits of the case.

12. In the result, appeal of assessee in ITA No. 1353/DEL/2025 is allowed.

Order pronounced in open court on 16.01.2026.

Sd/-  
[ANUBHAV SHARMA]  
JUDICIAL MEMBER

Sd/-  
[NAVEEN CHANDRA]  
ACCOUNTANT MEMBER

Dated: 16<sup>th</sup> January, 2026.

VL/

Copy forwarded to:

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

Asst. Registrar,  
ITAT, New Delhi

Sl No.	PARTICULARS	DATES
1.	<i>Date of dictation of Tribunal Order</i>	
2.	<i>Date on which the typed draft order is placed before the Dictating Member</i>	
3.	<i>Date on which the typed draft order is placed before the other Member [in case of DB]</i>	
4.	<i>Date on which the approved draft order comes to the Sr. P.S./P.S.</i>	
5.	<i>Date on which the fair Order is placed before the Dictating Member for sign</i>	
6.	<i>Date on which the fair order is placed before the other Member for sign [in case of DB]</i>	
7.	<i>Date on which the Order comes back to the Sr. P.S./P.S for uploading on ITAT website</i>	
8.	<i>Date of uploading, inf not, reason for not uploading</i>	
9.	<i>Date on which the file goes to the Bench Clerk</i>	
10.	<i>Date on which the file goes for Xerox</i>	
11.	<i>Date on which the file goes for endorsement</i>	
12.	<i>The date on which the file goes to the Superintendent for checking</i>	
13.	<i>Date on which the file goes to the Assistant Registrar for signature on the order</i>	
14.	<i>Date on which the file goes to the dispatch section for dispatch the Tribunal order</i>	
15.	<i>Date of Dispatch of the Order</i>	
16.	<i>Date on which the file goes to the Record Room after dispatch the order</i>	