Principal Commissioner of Income Tax-4, New Delhi v. M/s NTPC Ltd.

ITA 113/2026 & ITA 82/2026

2026:DHC:1220-DB; ITA 113/2026 and 82/2026, decided 09.02.2026 | 2026-02-09

NTPC: Revenue appeals for AYs 2011–12 and 2012–13 dismissed; audit opinion on corporate expenses did not supply a new fact for the 2016 reassessment notices.

Income-tax Act, 1961: sections 80-IA, 143(3), 147, 148, 260A

High Court of Delhi | 2-judge bench (Division Bench) | Justice Dinesh Mehta | Justice Vinod Kumar

Assessment years: 2011-12, 2012-13

Rejects Rs. 150 crore revenue-impact plea with dictum: 'however big may be the amount, nothing is bigger than the letter of law'

In paragraph 25, the Bench expressly rejected the Revenue's plea of a Rs. 150 crore loss to the exchequer, holding that an audit party's legal opinion on the same factual record cannot confer jurisdiction under Section 147.

01 FACTS OF THE CASE

For AYs 2011-12 and 2012-13, the AO had already framed assessments under Section 143(3) read with Section 147 on 21.02.2014 after examining NTPC's Section 80-IA claim and carry-forward of losses of its Combined Cycle Gas Power Plant Station. Subsequently, based on an objection raised by the Departmental Audit Party involving a combined tax effect of Rs. 150 crore, the AO issued fresh notices under Section 148. The ITAT by common order dated 16.02.2024 quashed the reassessments as based on a mere change of opinion.

Source: PDF pp. 1-4, paras 1-11

02 DISCUSSION BY THE HON'BLE COURT

The Court found that section 80-IA had already been examined and that the audit party supplied a different opinion on the same facts, rather than a new fact. Under the then-applicable reason-to-believe regime, the AO had to form an independent belief. It distinguished the factual-error line of authority quoted through Dalmia. Paragraph 24 uses broader language about audit objections, but paragraphs 22–23 expressly discuss the factual distinction. Section 263 was mentioned only as a possible route subject to statutory restrictions.

Source: PDF p.5

03 JUDICIAL DECISION

Finding no illegality in the ITAT's common order dated 16.02.2024, the High Court dismissed both ITA 113/2026 and ITA 82/2026.

Source: PDF p. 8, paras 26-28

04 OUTCOME / IN WHOSE FAVOUR

Assessee - Both Revenue appeals dismissed; annulment of Section 147/148 reassessments for AYs 2011-12 and 2012-13 upheld.

Source: PDF p. 8, para 27

05 EXPERT COMMENTS

Audit opinion and new facts are distinct — Paragraphs 22–23 distinguish a new factual error from a new view of existing facts. Although paragraph 24 uses broad language, the reasoning should not be reduced to a universal statement that every audit-origin fact is unusable.

Tie the argument to the earlier inquiry — The extensive earlier section 80-IA examination mattered. Compare the original questions, responses, assessment and recorded reasons to show whether the audit merely revisited the same material.

Use the historical statutory regime — The Court expressly applies the then-existing reason-to-believe standard to 2016 notices. This does not clear notices issued under later reassessment provisions without a separate statutory analysis.

Section 263 was not an authorised fresh proceeding — The possible revision route was qualified by statutory restrictions. The judgment neither extends limitation nor supplies a completed jurisdictional finding for revision; a large tax amount did not cure the defective reopening.

Source: PDF p.7

SOURCE & VERIFICATION

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STATUTORY SCOPE

Applies Sections 80-IA, 143(3), 147, and 148 of the Income-tax Act, 1961 for AYs 2011-12 and 2012-13. Income-tax Act, 2025 equivalence is not verified.

LATER TREATMENT

Source checked 2026-10-21. Subsequent judicial treatment has not been independently verified.

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

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