

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES 'B' DELHI**

**BEFORE SHRI P.K.BANSAL, VICE PRESIDENT
AND
SH. AMIT SHUKLA, JUDICIAL MEMBER**

**ITA No.6755/Del/2014
(ASSESSMENT YEAR: 2008-09)**

ACIT, Circle-50(1), New Delhi.	vs	Alka Dass, 383-384, Upper Ground Floor, New Rajinder Nagar, New Delhi-110060. PAN-AETPD7635P
(Appellant)		(Respondent)

Appellant by	Sh. Anshu Prakash, Sr.DR
Respondent by	None
Date of Hearing	21.09.2017
Date of Pronouncement	21.09.2017

ORDER

PER P.K.BANSAL, VICE PRESIDENT

This appeal filed by the revenue against the order dated 15.09.2014 of the CIT(A)-XXVI, New Delhi relating to assessment year 2008-09 by taking the following grounds of appeal:-

- 1. "The decision of Ld.CIT(A)'s order is not acceptable on the merits in the assessment year 2008-09.*
- 2. The Ld. CIT(A) has erred in not taking consideration of facts that proper procedure for reopening has been taken.*
- 3. The Ld.CIT(A) has erred in not taking into consideration of facts that the assessee nowhere challenged the issue of reopening/jurisdiction before*

ACIT-33(1), New Delhi during assessment proceedings, the case law on which the Ld.CIT(A) has relied are having different connotations and that does not fit in the case.”

2. No one was appearing on behalf of the assessee even though the notice has been sent.

3. We heard the rival submissions and going through the order of the tax authorities below, we noted that the CIT(A) held the assessment order to be null & void. In view of the Jurisdictional High Court decision in the case of CIT vs Living Media India Ltd. 359 ITR 106 (2013) [Del.] and Ranbaxy Laboratories Ltd. vs CIT in 336 ITR 136 (Delhi) [2011] by observing as under:-

6.1. “The ACIT, Range-IV, Lucknow after getting satisfied with the appellant's contention that she had not jurisdiction over the appellant, transferred the reassessment proceedings. This action of the ACIT, Range-IV, Lucknow basically strengthens the appellant's contention that the assessment proceedings in consequence to the notices u/s 148 of the ACIT, Range-IV, Lucknow are void ab-initio as the notices u/s 148 were issued by the ACIT, Range-IV, Lucknow which had no jurisdiction over the appellant. In view of above cited decisions, needless to place reliance on other case laws, it is held that the AO, New Delhi is not justified in completing the reassessments in case of the appellant for the relevant AYs in pursuance of the notices u/s 148 which had been issued by the ACIT, Range-IV, Lucknow because the ACIT, Range-IV, Lucknow is held to have no jurisdiction on the appellant on the date of issuance of such notices u/s 148.

6.2 Further, the above cases are also analyzed from different angle also. The AO issued notices u/s 148 for these AYs on the reasoning that the appellant had made substantial investments in immovable properties in these years; which prima-facie appeared unexplained; thus, the income to the extent of the investments made in the immovable properties in the relevant years had escaped assessments. Pursuant to the appellant's explanations, the AO did not make any addition for which these assessments were reopened. The appellant's case of these two years are held squarely covered by the decisions of the Hon'ble Delhi High Court in the cases of Living Media India Ltd.; 359 ITR 106 and Ranbaxy Laboratories Ltd. 336 ITR 136 and therefore, following these decisions, it is held that the reassessments, prima-facie, are not in accordance with the above judicial pronouncements.

6.3. In view of above, the appellant's reassessments in the above two AYs are held to be null and void. Accordingly, the impugned orders are annulled."

4. Ld. DR even though relied on the order of the AO but could not convince us that how the findings given by the CIT(A) are illegal and not covered by the jurisdiction of the High Court. We, therefore, confirm the order of the CIT(A).

5. In the result, the appeal filed by the revenue stands dismissed.

The order is pronounced in the open court on 21 September, 2017.

**Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER**

**Sd/-
(P.K.BANSAL)
VICE PRESIDENT**

Date:- 21.09.2017
Amit Kumar

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, DELHI