

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'F', NEW DELHI**

Before Sh. Amit Shukla, Judicial Member

Dr. B. R. R. Kumar, Accountant Member

(Through Video Conferencing)

ITA No. 4820/Del/2018 : Asstt. Year : 2015-16

DCIT, Circle-2, Meerut	Vs	Reeta Singhal, A-312, Prahlad Vatika, Khair Nagar, Meerut
(APPELLANT)		(RESPONDENT)
PAN No. ABTPS0061P		

**Assessee by : Sh. Raj Kumar Gupta, CA
Revenue by : Ms. Shivani Bansal, Sr. DR**

Date of Hearing: 16.09.2021

Date of Pronouncement: 25.11.2021

ORDER

Per Dr. B. R. R. Kumar, Accountant Member:

The present appeal has been filed by the Revenue against the order of the Id. CIT(A), Meerut dated 06.04.2018.

2. Following grounds have been raised by the Revenue:

"1. Whether in the facts and circumstances of the case, the Id. Commissioner of Income Tax (Appeals) has erred in quashing the assessment order passed by DCIT, Circle-2, Meerut as illegal and without jurisdiction on the ground that notice u/s 143(2) was not issued by the jurisdictional AO within stipulated time limits, by ignoring the facts that assessee had not challenged the jurisdiction before the A.O. viz. DCIT, Circle-2, Meerut at any time during the assessment proceedings and participated in assessment proceedings without any protest?"

2. *Whether in the facts and circumstances of the case, the Id. Commissioner of Income Tax (Appeals) has erred in law and fact in quashing the assessment order passed by the DCIT, Circle-2, Meerut as illegal and without jurisdiction despite the fact that the assessee is residing at Ghaziabad since long and address of Meerut is being used by her or filing of return of income only and ultimately the order has been passed by the jurisdictional AO at Meerut?"*

3. The assessee has filed his return of income on 12.09.2015 declaring an income of Rs.11,22,370/-. The notice u/s 143(2) of the Income Tax Act, 1961 was issued on 26.07.2016 which was duly served upon the assessee as per the Assessing Officer. Whereas the Id. CIT(A) held that the assessment was not valid as the notice has been issued by an Officer not having jurisdiction over the case of the assessee.

4. Aggrieved the revenue filed appeal before us. The moot facts are as under:

- The return of income was filed on 12.09.15 in Range-2 Meerut, U.P.
- As per proviso to sec. 143 (2), the notice u/s.143 (2) was to be issued and served upto 30.09.16.
- The 1st notice u/s.143 (2) dtd.26.07.16 has been issued by ITO Malegaon, Nasik.
- The 2nd notice u/s.143 (2) dtd.28.07.16 has been issued by ITO (exemption) Ward-1 Nasik.
- Then upto 30.09.2016 no other notice u/s.143 (2) has been issued.
- It has been further noticed that the appellant informed the A.O. at Nasik that the correct jurisdiction was at Meerut

therefore the records should be sent at Meerut to the jurisdictional A.O.

- The AO at Nasik being ITO (Exemption), Ward-1 transferred the assessment records to DCIT, Circle-2, Meerut on 20.02.2017.
- The PAN of the assessee was in the Range, Meerut.
- First notice u/s 143(2) was issued by DCIT, Circle-2, Meerut on 28.02.2017
- The assessment was completed on 29.12.2017.

5. Thus, we find that there is no dispute that the jurisdiction of the case is at Meerut and notice u/s 143(2) was supposed to be issued by 30.09.2016 whereas the notice has been issued for the first time by the jurisdictional Assessing Officer on 28.02.2017 which is beyond the period of limitation. Hence, the assessment is liable to be treated as invalid *ab initio*.

6. In the result, the appeal of the Revenue is dismissed.
Order Pronounced in the Open Court on 25/11/2021.

Sd/-

(Amit Shukla)
Judicial Member

Dated: 25/11/2021

Subodh Kumar, Sr. PS

Copy forwarded to:

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

Sd/-

(Dr. B. R. R. Kumar)
Accountant Member

ASSISTANT REGISTRAR