

**IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR.**

**BEFORE SH. RAVISH SOOD, JUDICIAL MEMBER
AND DR. M. L. MEENA, ACCOUNTANT MEMBER**

**I.T.A. No. 342/(Asr)/2019
Assessment Year: 2010-11**

Sh. Ramesh Kumar
Bathinda

Vs.

Income Tax Officer,
Ward -1(3), Bathinda

[PAN: BPWPK 9251D]

(Appellant)

(Respondent)

Appellant by : Sh. Tarun Bansal, Advocate

Respondent by : Sh. Trilochan Singh PS Khalsa, DR

Date of Hearing: 22.12.2021

Date of Pronouncement: 21.02.2022

ORDER

PER RAVISH SOOD, JM

The present appeal filed by the assessee is directed against the order passed by the Commissioner of Income-Tax (Appeals), Bathinda, dated 22.02.2019, which in turn arises from the order passed by the A.O u/ss. 143(3)/147 of the Income Tax Act, 1961 (for short 'Act'), dated 22.11.2017 for Assessment Year 2010-11. The assessee has assailed

the impugned order passed by the CIT(A) on the following grounds of appeal before us:

- “1. That the reasons recorded for re-opening the assessment is devoid of any application of own independent mind by A.O, as no reasons to believe arises from the reasons being recorded by two separate assessing officers, notice u/s 148 issued by two separate A.Os and assessment is bad-in-law.
2. That the sanction of Principal CIT, Bathinda for re-opening u/s 147/148 is mechanical in nature, invalid and bad-in-law being given to two separate assessing officers, side by side and assessment is bad-in-law.
3. That Id. A.O 2(1), Bathinda blown hot & cold being passed the order to meet the objection on Jurisdiction dtd 16-8-17 against appellant, but also suo-motto transferred the case to A.O 1(3), and the assessment is bad-in-law.
4. That the order of A.O 1(3) is bad-in-law, when the jurisdiction of appellant lies with A.O 2(1) also or with two A.Os.
5. That the re-opening u/s 148 by A.O 1(3), Bathinda merely on the basis of Cash deposit is invalid, void-abinitio, bad-in-law and is a borrowed satisfaction.
6. That the assessment framed by A.O (1)3, Bathinda is bad-in-law, invalid and void-abinitio being no order is passed to primary objections raised by the appellant.
7. That assessment made by A.O 1(3), Bathinda is bad-in-law being it gave no finding on the reasons recorded u/s 147.
8. That the Id. A.O 1(3) made the assessment with dwindling mind and is bad in law being firstly he holds that HUF is formed when sale proceeds of land are deposited in HUF bank A/c, having PAN, Bank Statement, ITR and Balance Sheet etc. Secondly he himself holds HUF property Can't be distributed without full dissolution of HUF, but assessed as individual overlooking land revenue record .indicating that land in question is 'HUF' land and where there is no dissolution /partition of HUF too.
9. That the CIT(A) has erred in law, as well as, on facts by ignoring that the Id. A.O has wrongly estimated the cost of land and Capital Gain, suo-

motto by ignoring section 55(2)(b) and 55A of Income Tax Act, respectively before calculating the Capital Gain and order of A.O require to be set-a-side.

10. That the Id.CIT(A) has erred in law, as well as ,on facts by holding the land in question as individual land by ignoring land revenue record and further ignored that neither such finding is given by A.O nor any remand report was called for.

11. That the revenue blown hot & cold by dropping the proceedings u/s 148 on one of the person of HUF Sh. Inderpal S/o Durga Parshad S/o Ram Kishan and require to dropping of proceeding in the case of appellant too.”

2. Succinctly stated, on the basis of information received by the A.O, that the assessee who during the year under consideration had sold his share of land admeasuring 33 Bigha – 12 Biswas [112,3/16 biswa part], within the Municipal limits of Bathinda [Code No. 0002 Sr. No. 0224], had though made cash transactions of Rs. 70,84,580/- in his Saving Bank A/c, but had failed to declare the capital gain qua the aforesaid sale transaction by filing his return of income, the A.O reopened the case of the assessee u/s 147 of the Act. Notice u/s 148, dated 29.03.2007 was thereafter issued by the Income-Tax Officer, Ward-II(1), Bathinda to the assessee after obtaining the approval of the Principal Commissioner of Income-tax, Bathinda, vide his letter No. Pr. CIT/BTI/Tech/151/2016-17/3749, dated 29.03.2017. In compliance, the assessee manually filed his return of

income on 22.08.2017, declaring Nil income. Case of the assessee was thereafter picked up for compulsory scrutiny as per the CBDT Instructions, and Notices u/ss. 143(2)/142(1) of the Act were issued by the A.O a/w a copy of the 'reasons to believe' on the basis of which his case was reopened.

3. During the course of the assessment proceedings, the A.O called upon the assessee to put forth an explanation as regards the source of the cash deposits in his bank account, as well as furnish the calculation of the Long Term Capital Gain ("LTTCG", for short) on sale of the land in question. In reply, it was submitted by the assessee that he had sold his share [194,3/8 biswa part] in land [i.e 33 Bigha – 12 Biswa Kacha Nehri Berani] situated at Patti Jhutti within the Municipal Committee limits of Bathinda (Code No. 0002 Sr. No. 0224), and his share worked out at Rs. 70,84,580/- . In sum and substance, it was the claim of the assessee that the deposits in his bank account were out of his share of sale proceeds of the aforesaid land in question. Qua the notice issued u/s 142(1) of the Act by the ITO, Ward-II(1), Bathinda, the assessee vide his letter dated 24.07.2017 objected to the same, inter alia, on the ground, that as the jurisdiction to

issue the Notices u/ss. 148 & 142(1) was vested with the ITO, Ward-1(3), Bathinda, therefore, those issued by the ITO, Ward-II(1), Bathinda being without jurisdiction did not have any sanctity of law. Also, the assessee vide his aforesaid reply dated 24.07.2017 (filed on the same date with the ITO, Ward 2(1), Bathinda) brought to his notice that he was also in receipt of a Notice u/s 142(1) from the ITO, Ward-1(3), Bathinda, i.e, the jurisdictional A.O. At this stage, we may herein observe, that the assessee was also in receipt of a Notice u/s 148, dated 24.03.2017 from the ITO, Ward-1(3), Bathinda. Backed by the aforesaid facts, the assessee vide his letter dated 24.07.2017(supra) had sought for dropping of the reassessment proceedings by the ITO, Ward-II(1), Bathinda. Responding to the objections that were filed by the assessee vide his letter dated 24.07.2017, the A.O, i.e, ITO, Ward II(1), Bathinda, vide his order dated 16.08.2017 stated as under (relevant extract):

“It is to inform you that notice u/s 148 of the Income-tax Act, 1961 dated 29.03.2017 relating to the assessment year 2010-11 issued to you is well within the prescribed time limit besides being legally valid as provided in Sec. 151 of the IT Act, 1961. Copy of the notices issued before 31.03.2017 and the copy of receipt issued by the postal authorities is also being enclosed for your reference. Moreover, as per the Hon’ble Delhi High Court’s order dated 15.01.2016 in a writ petition under Article 226/227 of the Constitution of India (W.P© 1569/2015 & CM No. 2800/2015) in the case of Dushyant Kumar Jain Versus DCIT, it is held that once jurisdiction assumed by any Assessing Officer, the same jurisdiction should be continued with him only.

Your attention is also drawn to the Hon'ble Delhi High Court's decision vide its Order vide ITA No. 128 of 2016, dated 23.02.2017 in the case of Mega Corporation Ltd., where it has been held in unambiguous terms that in the light of Sec. 124(3)(a) of the Income-tax Act, 1961 an assessee is not entitled to question the jurisdiction of an Assessing Officer after the expiry of one month from the date on which he is served a notice u/s 142(1) or 143(2) or 115WE(2) or after the completion of assessment, whichever is earlier. Moreover, your request for transfer of this case to the Income-tax Officer, Ward 1(3), Bathinda has been sent alongwith the requisite information available with this office vide this office letter No. 547, dated 08.08.2017 and the both of the files may be clubbed with one file alongwith the information available with both the officers for completion of the assessment either of the officer. Therefore, the notice u/s 142(1) issued is not without jurisdiction.

In view of the above stated facts and law, the objections raised by the assessee against the notice issued u/s 148 cannot be accepted and the assessment proceedings shall continue. Accordingly, you are requested to submit your ITR and co-operate in the completion of assessment. The case is adjourned for further hearing to be made on 25.08.2017.

Place : Bathinda
Date : 16.08.2017

Sd/-
(Sham Lal Gupta)
Income-Tax Officer,
Ward-2(1), Bathinda"

Also, the assessee vide his letter dated 30.08.2017 objected to the issuance of Notice u/s 148, dated 24.03.2017 by the ITO, Ward-1(3), Bathinda.

4. On merits, it was the claim of the assessee, that as the land in question was an inherited property, i.e, property which he a/w his two brothers and his mother had inherited after the death of his father, viz. Shri. Durga Parasd, who in turn had inherited the same from his

forefathers, therefore, the same belonged to his HUF. Observing, that the assessee could not substantiate to the hilt his claim as regards the existence of the HUF by providing any proof, i.e, PAN, bank statement, balance sheet, details of its members etc., the A.O on the basis of his exhaustive deliberations rejected the aforesaid claim of the assessee and, held him personally liable qua the transaction of sale of land in question. As the assessee had failed to provide the details as regards the consideration for which the property in question was purchased, therefore, the A.O triggering the provisions of Sec. 49(1)(iii) of the Act, therein, in the absence of availability of the collector rates of the property as on 01.04.1981, worked out the same on an estimate basis @Rs. 5,000/- per bigha and brought to tax the LTCG of Rs. 67,81,125/- in the hands of the assessee. Accordingly, the A.O, i.e, ITO, Ward-1(3), Bathinda, vide his order passed u/s 143(3) r.w.s 147, dated 22.11.2017 assessed the income of the assessee at Rs. 79,81,125/-.

5. Aggrieved, the assessee carried the matter in appeal before the CIT(A). Before the CIT(A), the assessee assailed both the jurisdiction assumed by the A.O for reopening of his case, as well as the sustainability

of the addition made by him on merits. However, the CIT(A) not being persuaded to subscribe to the contentions of the assessee dismissed the appeal.

6. Being aggrieved with the order of the CIT(A) the assessee has carried the matter in appeal before us. Ld. Authorized Representative ("A.R", for short) for the assessee, at the very outset of the hearing of the appeal, on the basis of his multi facet contentions assailed the validity of the jurisdiction that was assumed by the A.O for reopening the case of the assessee u/s 147 of the Act, viz. that the reopening of the assessee's case is divorced from any independent application of mind by the A.O to the material available on record; that the Pr. CIT had granted the approval u/s 151 of the Act in a mechanical manner, i.e, without any application of mind; and that the A.O who had framed the assessment, viz. ITO, Ward-1(3), Bathinda had wrongly assumed jurisdiction and passed the order u/s. 143(3) r.w.s 147, dated 22.11.2017. Elaborating on his aforesaid contentions, it was submitted by the Id. A.R, that as is discernible from the assessment order, the ITO, Ward-1(3), Bathinda, i.e, the jurisdictional A.O had though issued the Notice u/s 148 on 24.03.2017, however, the

requisite approval u/s 151 of the Act, as stated by him in the assessment order was obtained on 29.03.2017, i.e, after issuance of the aforesaid notice. Backed by the aforesaid fact, it was averred by the Id. A.R that as per the mandate of Sec. 148 r.w.s 151 of the Act, no notice shall be issued by an A.O u/s 148 of the Act, unless the sanctioning authority therein prescribed is satisfied, on the reasons recorded by the A.O that it is a fit case for issue of such notice. It was submitted by the Id. A.R, that as in the present case, the A.O, i.e, the ITO, Ward 1-(3), Bathinda, had issued the Notice u/s 148, dated 24.03.2017 prior to obtaining the requisite approval/sanction of the Pr. CIT, Bathinda, which admittedly as stated by him in the assessment order was obtained only as on 29.03.2017, therefore, he had invalidly assumed jurisdiction for reopening the case of the assessee u/s 147 of the Act. On the basis of his aforesaid contention, it was, inter alia, submitted by the Id. A.R that as the order u/s 143(3) r.w.s 147, dated 22.11.2017 was based on invalid assumption of jurisdiction by the A.O, viz. ITO, Ward-1(3), Bathinda, as the Notice u/s 148, dated 24.03.2017 was issued by him pre-empting the grant of the requisite sanction u/s 151 of the Act by the Pr. CIT, Bathinda, which as per the records was only granted as on 29.03.2017, therefore, the same could not

be sustained and, on the said count itself was liable to be vacated. Apart from that, it was submitted by the Id. A.R, that as was discernible from the 'reasons to believe', dated 14.03.2017 recorded by the A.O, i.e, ITO, Ward-1(3), Bathinda, though the reassessment proceedings were initiated qua the cash deposits of Rs. 34,13,125/- in the assessee's bank a/c with State Bank of Patiala, Branch: Grain Market, Bathinda, however, the addition was thereafter made by him vide his order passed u/s 143(3) r.w.s 147, dated 22.11.2017, not as regards the said cash deposits, but on the basis of the reasons as per which the assessee's case was thereafter reopened by the ITO, Ward-II(1), Bathinda, vide his 'reasons to believe', dated 24.03.2017. Our attention was drawn by the Id. A.R to the respective "reasons to believe" recorded by the aforementioned officers, as well as the addition made by the A.O, i.e, the ITO, Ward-1(3), Bathinda while framing the assessment u/s 143(3) r.w.s 147, dated 22.11.2017. In sum and substance, it was the claim of the Id. A.R, that as the A.O had failed to make any addition qua the "reason" on the basis of which he had reopened the case of the assessee, therefore, the assessment order passed by him u/s 143(3) r.w.s 147, dated 22.11.2017 could not be sustained and was

liable to be vacated. Apart from that, the Id. A.R had assailed the addition made by the A.O on merits.

7. Per Contra, the Id. Departmental representative supported the orders of the lower authorities. It was submitted by the Id. D.R that as the A.O had validly assumed jurisdiction and framed the assessment vide his order passed u/s. 143(3) r.w.s 147, dated 22.11.2017, therefore, no infirmity did emerge therefrom. Rebutting the claim of the Id. A.R that the A.O had obtained the requisite sanction u/s 151 from the Pr. CIT on 29.03.2017, i.e, subsequent to the issuance of Notice u/s 148, dated 24.03.2017, it was submitted by the Id. D.R that the said claim was based on misconceived facts. Elaborating on his aforesaid contention, it was submitted by the Id. D.R that the approval u/s 151 of the Act, dated 29.03.2017 was in context of the reopening of the assessee's case by the earlier A.O, i.e, the ITO, Ward-II(1), Bathinda, who had initiated the reassessment proceedings by recording the requisite "reasons to believe", dated 24.03.2017 (Page 3 of "APB"). It was submitted by the Id. D.R, that the ITO, Ward-II(1) subsequent to obtaining the requisite sanction u/s 151 from the Pr. CIT, Bathinda on 29.03.2017, had issued the Notice u/s 148, dated 29.03.2017

(Page 1 of "APB"). On being confronted with the fact that the A.O passing the order u/s 143(3) r.w.s 147, dated 22.11.2017, i.e, the ITO, Ward-1(3), Bathinda had categorically stated in his assessment order that the Notice u/s 148 was issued to the assessee on 29.03.2017 with the prior approval of the Pr. CIT, Bathinda vide his office letter No. Pr. CIT/BTI/Tech/151/2016-17/3749, dated 29.03.2017, it was submitted by the Id. D.R that the said approval was given in context of the "reasons to believe", dated 24.03.2017 recorded by the ITO, Ward II(1), Bathinda, on the basis of which the latter had thereafter issued Notice u/s 148, dated 29.03.2017. On a further query by the bench as to whether the ITO, Ward-1(3), Bathinda, i.e, the jurisdictional A.O who had framed the assessment u/s 143(3) r.w.s 147, dated 22.11.2017 had prior to issuance of the Notice u/s 148, dated 24.03.2017 obtained the statutory sanction of the prescribed authority, i.e, the Pr. CIT, Bathinda, as envisaged in Sec. 151 of the Act, the Id. D.R failed to reply to the same. It was, however, submitted by the Id. D.R, that the A.O framing the assessment had validly assumed jurisdiction and, reopened the case of the assessee and framed the assessment vide his order passed u/s 143(3) r.w.s 147, dated 22.11.2017. Rebutting the claim of the Id. A.R, that the A.O having failed to make any

addition qua the "reason" on the basis of which he had reopened the case of the assessee, therefore, the assessment order therein passed by him u/s 143(3) r.w.s 147, dated 22.11.2017 could not be sustained and was liable to be vacated, it was submitted by the Id. D.R, that as the cash deposits of Rs. 34,13,125/- (supra) in the assessee's bank account with State Bank Of Patiala, Branch : Grain Market, Bathinda, on the basis of which the case of the assessee was reopened u/s 147 of the Act, formed part of the sale consideration of Rs. 70,84,580/- (supra), therefore, it was incorrect on the part of the Id. A.R to claim that no addition was made w.r.t the reason on the basis of which the assessee's case was reopened u/s 147 of the Act. In order to fortify his aforesaid contention the Id. D.R had taken us through the relevant extract of the "Cash book" that was filed by the assessee's counsel in the course of hearing of the appeal before us.

8. We have heard the Id. Authorized representatives for both the parties, perused the orders of the lower authorities and the material available on record, as well as considered the judicial pronouncements that have been pressed into service by them to drive home their respective contentions. As the assessee has assailed the validity of the jurisdiction

assumed by the A.O, viz. ITO, Ward-1(3), Bathinda for reopening the assessee's case u/s 147 of the Act, therefore, we shall first deal with the same.

9. As is discernible from the records, the ITO, Ward-II(1), Bathinda, holding a belief that the sale consideration of Rs. 70,84,580/- received by the assessee on sale of his share of land, i.e, 194,3/8 part of the total sale transaction of Rs. 2.45 crore had escaped assessment, as the assessee had not filed his return of income for the year under consideration, thus, reopened his case u/s 147 of the Act by recording the "reasons to believe", dated 24.03.2017. As can be gathered from the records, the A.O, i.e, ITO, Ward-II(1), Bathinda had as on 29.03.2017 obtained the requisite sanction u/s 151 of the Act from the Pr. CIT, Bathinda, and had thereafter issued the Notice u/s 148, dated 29.03.2017. Admittedly, the ITO, Ward-II(1), Bathinda had prima facie complied with the requisite conditions for reopening the case of the assessee u/s 147 of the Act, but the fact that he was not vested with the jurisdiction over the case of the assessee, was a bottle neck in framing of the assessment by him, therefore, the case records of the assessee, as stated by him in his aforesaid letter dated

16.08.2017 (supra), were transferred to the ITO, Ward-1(3), Bathinda, i.e, the A.O having jurisdiction in the case of the assessee. Accordingly, as noticed and purposively culled out by us hereinabove, the ITO, Ward-II(1), Bathinda, vide his order dated 16.08.2017 (supra), while disposing off the objections of the assessee qua the reasons recorded u/s 147 of the Act, had observed, that the case as per the request of the assessee was being transferred to the ITO, Ward-1(3), Bathinda a/w the requisite information available with his office, vide a letter No. 547, dated 08.08.2017, and had further directed that both the files available with the officers be clubbed for framing the assessment. Thereafter, as is the fact borne from the record, the ITO, Ward-1(3), Bathinda, i.e, the A.O having jurisdiction over the case of the assessee, had thereafter framed the assessment vide his order passed u/s 143(3) r.w.s 147, dated 22.11.2017. Admittedly, the ITO, Ward-1(3), Bathinda had after recording his "reasons to believe", dated 14.03.2017 (Page 7 of "APB) had issued a Notice u/s 148, dated 24.03.2017 (Page 6 of "APB"). Although in the Notice u/s 148, dated 24.03.2017, it is mentioned that the prior approval for issue of Notice u/s 148 had been obtained from the Pr. CIT, Bathinda, however, neither any reference of having obtained the said approval is discernible from the

assessment order, nor anything in support thereof was placed on our record by the Id. D.R. In fact, as observed by us hereinabove, the A.O, i.e the ITO, Ward-1(3), Bathinda, in his order passed u/s 143(3) r.w.s 147, dated 22.11.2017, had referred about the approval that was obtained from the Pr. CIT, Bathinda vide the latter's office letter No. Pr. CIT/BTI/Tech /151/2016-17/3749, dated 29.03.2017. However, as observed by us hereinabove, i.e, while rebutting the claim of the Id. A.R that the ITO, Ward-1(3), Bathinda had issued the Notice u/s 148 of the Act on 24.03.2017, i.e, prior to obtaining of the approval u/s 151 by him on 29.03.2017, we had noticed that the said approval was in context of the Notice u/s 148, dated 29.03.2017 that was issued by the ITO, Ward-II(1), Bathinda. As the fact as regards the obtaining of the approval by the A.O, i.e, ITO, Ward-1(3), Bathinda could not be gathered from the body of the assessment order, therefore, in all fairness the Id. D.R was directed to produce the assessment record. On the next date of hearing of the appeal, the Id. D.R, as directed, produced the assessment records. After perusing the assessment records, the case of the revenue was not placed on any better footing, as we failed to come across any approval obtained by the A.O, i.e ITO, Ward-1(3), Bathinda from the sanctioning authority, i.e, the

Pr. CIT, Bathinda. On being confronted with the said factual position the Id. D.R could not rebut the same. Only claim of the Id. D.R, as it earlier was, that the A.O, i.e. ITO, Ward-1(3), Bathinda must have obtained the requisite sanction from the Pr. CIT, Bathinda, i.e, prior to issuing the Notice u/s 148, dated 24.03.2017.

10. As we have perused the assessment records and, no material is discernible therefrom which would support the claim of the Id. D.R that the A.O, i.e. ITO, Ward-1(3), Bathinda, prior to issuance of Notice u/s 148 had obtained the requisite sanction from the Pr. CIT, Bathinda, therefore, we are constrained to proceed with on the said factual matrix. Admittedly, the assessment order passed by the ITO, Ward 1(3), Bathinda u/s 143(3) r.w.s 147, dated 22.11.2017 only makes a reference of the sanction obtained from the Pr. CIT, Bathinda vide his office letter No. Pr. CIT/BTI/Tech /151/2016-17/3749, dated 29.03.2017. Although, at the first blush, the reference of the aforesaid sanction of the Pr. CIT, dated 29.03.2017 in the body of the assessment order passed u/s 143(3) r.w.s 147, dated 22.11.2017 by the ITO, Ward-1(3), Bathinda, as claimed by the Id. A.R, would appear to be in context of the reopening of the assessee's case by

the A.O framing the assessment, i.e, ITO, Ward-1(3), Bathinda, but after considering the facts as are discernible from the records, we are of the considered view that the same is in context of the Notice u/s 148, dated 29.03.2017 that was issued by the ITO, Ward-II(1), Bathinda. Backed by the aforesaid facts, we hold a conviction that there can be two set of situations possible in the case before us, viz. (i). that the A.O, i.e, ITO, Ward 1(3), Bathinda, i.e the A.O having jurisdiction over the case of the assessee had failed to obtain the requisite sanction u/s 151 of the Act from the Pr. CIT, Bathinda qua his 'reasons to believe', dated 14.03.2017, and had issued the Notice u/s 148, dated 24.03.2017 ; or (ii) that the A.O, i.e, ITO, Ward 1(3), Bathinda had proceeded with on the basis of the sanction u/s 151, dated 29.03.2017 that was obtained by the ITO, Ward-II(1), Bathinda, and dispensing with the statutory requirement of obtaining any separate sanction qua the 'reasons to believe', dated 14.03.2017, that were recorded by him, had issued Notice u/s 148, dated 24.03.2017 and framed the assessment vide his order passed u/s 143(3) r.w.s 147, dated 22.11.2017. In either of the situations the assumption of jurisdiction by the A.O, i.e, ITO, Ward-I(3), Bathinda, de hors obtaining of the requisite sanction u/s 151 of the Act, would be devoid and bereft of any force of

law. A far fetched situation that had been canvassed by the Id. A.R before us, i.e, the ITO, Ward-I(3), Bathinda had pre-empted the grant of sanction by the Pr. CIT, Bathinda u/s 151 of the Act, and prior to obtaining of the same on 29.03.2017 issued the Notice u/s 148, dated 24.03.2017, though being beyond comprehension had been rejected by us, but then, if that be so, then too the assumption of jurisdiction by the A.O, i.e, issuance of Notice u/s 148, dated 24.03.2017 without obtaining the requisite sanction u/s 151 of the Act, i.e, prior to issuance of the said notice would be bad in the eyes of law. Be that as it may, we are of the considered view, that as the A.O in the present case before us had failed to obtain the approval of the prescribed authority as contemplated u/s 151 of the Act, i.e, qua the 'reasons to believe' recorded by him on 14.03.2017, that it is a fit case for issuance of Notice u/s 148 of the Act, therefore, he had wrongly assumed jurisdiction and de hors satisfaction of the aforesaid statutory requirement issued Notice u/s 148, dated 24.03.2017 and framed the assessment u/s 143(3) r.w.s 147, dated 22.11.2017. We, thus, in terms of our aforesaid observations hold the Notice u/s 148, dated 24.03.2017 issued by the A.O, i.e, ITO, Ward-1(3), Bathinda as invalid in the eyes of law and quash the assessment framed by him u/s 143(3) r.w.s 147, dated 22.11.2017.

Accordingly, the order passed by the CIT(A) is set-aside and, the assessment framed by the A.O u/s 143(3) r.w.s 147 of the Act, dated 22.11.2017 is quashed for want of valid assumption of jurisdiction by him.

11. As we have in terms of our aforesaid observations quashed the assessment framed by the A.O u/s 143(3) r.w.s 147, dated 22.11.2017, for want of jurisdiction on his part, therefore, we refrain from adverting to and therein adjudicating the other contentions so raised by him as regards the validity of the jurisdiction assumed by the A.O for framing the impugned assessment, as well as those advanced by him as regards the sustainability of the addition on the merits of the case, which, thus, are left open.

12. Resultantly, the appeal filed by the assessee is allowed in terms of our aforesaid observations.

Order pronounced under rule 34(4) of the Income Tax (Appellate Tribunal) Rules, 1962, by placing the details on the notice board.

Sd/-
(Dr. M.L. Meena)
Accountant Member

Sd/-
(Ravish Sood)
Judicial Member

Date: 21.02.2022

***GP/Sr./PS**

Copy of the order forwarded to:

- (1) The Appellant:
- (2) The Respondent:
- (3) The CIT(Appeals)
- (4) The CIT concerned
- (5) The Sr. DR, I.T.A.T

True copy

By Order