

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'A' BENCH,  
NEW DELHI (THROUGH VIDEO CONFERENCING]

BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER, AND  
SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER

ITA No. 4745/DEL/2017 [A.Y 2007-08]

Shri Balbir Singh  
S/o Shri Net Ram Through L/H  
VPO Chandawas, Distt Rewari

Vs.

The I.T.O  
Ward - 1  
New Delhi

PAN: EBPPS 4909 L

(Applicant)

(Respondent)

Assessee By : Shri Mahavir Singh, Adv

Department By : Shri Manu Chaurasiya, Sr. DR

Date of Hearing : 07.03.2022

Date of Pronouncement : 07.03.2022

**ORDER**

PER N.K. BILLAIYA, ACCOUNTANT MEMBER:-

This appeal by the assessee is preferred against the order of the  
CIT[A], Rohtak dated 30.12.2015 pertaining to Assessment Year 2007-08.

2. The assessee has raised the following grounds of appeal:

"1. The Ld. CIT(A) has erred in law as well as on facts in dismissing the appeal of the assessee against the order of Ld. A.O. Ward 2 Narnaul.

2. The LD. CIT(A) has erred in rejecting in a summary manner the ground regarding the jurisdiction of ITO Ward 2 Narnaul to whom the case was transferred from ITO ward 2 Rewari by the JCIT Rewari.

3. The assessee raised objection to the jurisdiction of the I.T.O. Narnaul which as per provisions of section 124(2) of I.T. Act was to be settled by the CIT /COT only. The Ld. CIT(A) failed to adjudicate this ground of the assessee in a summary manner and by non-speaking order.

4. The Ld. CIT (A) failed to adjudicate judicially the ground of appeal where validity of notice u/s 148 was questioned on the ground of undated and incorrect reasons recorded.

5. The Ld CIT(A) further erred in passing an order in case of a deceased person without involving the legal heir of the assessee who died on 01/08/2015 and appellate order is dated 14/12/2015.

6. The LD. CIT(A) failed to decide the ground of appeal wherein it was stated that the assessment framed under Section 143(3) without issue of notice under Section 143(2) by ITO Ward 2 Narnaul was invalid and non-est.

7. The Ld. CIT(A) has further erred in confirming addition made on account of cash deposit in his bank account despite plausible explanation furnished during assessment as well as appellate proceedings.

8. The Ld. CIT(A) has erred in confirming the addition made by LD. A.O. on account of denial of full exemption claimed under Section 54F of I.T. ACT.

9. The Ld. CIT(A) failed to adjudicate judiciously the claim of agricultural income of the assessee denied by LD. A.O. without any basis.

10. The assessee craves to amend, modify, delete or add any ground of appeal during appellate proceedings.

It is prayed that the appeal of the appellate may kindly be admitted and assessment framed may be adjudged as non-est being passed by an A.O. who did not have jurisdiction over the assessee."

3. At the very outset, the ld. counsel for the assessee stated that the challenge to the jurisdiction of the ITO has already been settled by this Tribunal in the case of Om Prakash in ITA No. 833/DEL/2016.

4. The ld. DR fairly conceded to this, though placed strong reliance on the assessment order.

5. We have carefully considered the orders of the authorities below and have carefully perused the order of this Tribunal. We find force in the contention of the ld. counsel for the assessee. We find that this Tribunal in ITA No. 833/DEL/2016 for Assessment Year 2007-08 has considered an identical quarrel. The relevant findings of the co-ordinate bench read as under:

"7. I have heard the rival contentions and perused the facts of the case. Thus I hold that the assessment order dated 22.3.2013 passed by the ITO Ward (2) Narnaul was without jurisdiction, in view of the arguments made by the Id. counsel for the assessee Mr. Abhishek Maratha and I am convinced with the arguments so made by Mr. Abhishek Maratha, Advocate and by reading the various provisions contained in section 120 and 127 of the Act and the office order of the JCIT and on perusal of the facts on record.

8. The submissions of Id. counsel for the assessee/appellants also gets reiterated by the decision of 1TAT "D" Bench in the case of Mega Corporation Ltd. vs. Addl.CIT Range 6, New Delhi reported in (2015] 62 taxman.com 351 (Delhi) (Tribunal), whereby the Delhi Bench of the Tribunal held that once authorities' lack jurisdiction then it is well settled it cannot participate even on elapse of time. Thus, in the absence of jurisdiction, order made by Addl.CIT is a nullity. Further provisions contained in section 124 is of no help to the Revenue in as much as here is a case where the Addl.CIT lacks jurisdiction and is not a case of exercise of jurisdiction of territorial jurisdiction. The assessment has to be completed by the authority who has initiated the proceedings for making assessment and any another authority and take over the proceedings only after a proper order of transfer u/s 127(1) or 127 (2) of the proceedings. The Revenue has not brought any order for transfer of proceedings from Dy. CIT Circle -6, New Delhi to the Addl. CIT, Range-6, New Delhi and therefore this is quite evident that the Addl. CIT - Range 6 took over the assessment proceedings, without there being an order u/s 127(1).

9. Consequently on this count, the assessment in the present case made by the Addl.CIT is illegal and bad in law and for want of jurisdiction for reasons aforesaid and the order of assessment was without jurisdiction and therefore is quashed as such."

6. On finding parity of facts, respectfully following the findings of the Tribunal [supra], we hold that the assessment is without jurisdiction and is, accordingly, quashed. Since we have quashed the assessment order, we do not find it necessary to dwell into the merits of the case.

7. In the result, the appeal of the assessee in ITA No. 4745/DEL/2017 is allowed.

The order is pronounced in the open court on 07.03.2022.

Sd/-

**[CHALLA NAGENDRA PRASAD]  
JUDICIAL MEMBER**

Sd/-

**[N.K. BILLAIYA]  
ACCOUNTANT MEMBER**

Dated: 07<sup>th</sup> March, 2022.

VL/

Copy forwarded to:

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

Asst. Registrar,  
ITAT, New Delhi

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