

**IN THE INCOME TAX APPELLATE TRIBUNAL  
JODHPUR BENCH, JODHPUR**

**BEFORE DR. M. L. MEENA, ACCOUNTANT MEMBER  
AND SH. ANIKESH BANERJEE, JUDICIAL MEMBER**

**I.T.A. No. 210/Jodh/2017**  
Assessment Year: 2008-09

Smt. Zayada Ghori  
Plot No. 99, Near Madni  
Mazjid, Kamla Nehru Nagar,  
Jodhpur

[PAN: ABPPG 3176K]  
**(Appellant)**

Vs. Income Tax Officer,  
W-3(4), Jodhpur

**(Respondent)**

Appellant by : Sh. Goutam Chand Baid, C.A.  
Respondent by : Ms. Nidhi Nair, JCIT-DR

Date of Hearing : 12.10.2023  
Date of Pronouncement : 13.10.2023

**ORDER**

**Per Dr. M. L. Meena, AM:**

This captioned appeal has been filed by the assessee against the order of the Id. Commissioner of Income Tax (Appeals)-2, Jodhpur dated 26.10.2016 in respect of Assessment Year 2008-09 challenging therein the

validity of the jurisdiction of the assessment on account of issue of notice u/s 148 by the non-jurisdictional Income Tax Officer, Ward-3(3), Jodhpur.

2. At the outset, the Id. counsel for the assessee has submitted that the Income Tax Officer, Ward-3(3), Jodhpur was not justified in issuing notice u/s 148 in the present case, because he has no jurisdiction because the jurisdiction on the present case lies with the Income Tax Officer, Ward-3(4), Jodhpur. He argued that thus, the notice issued u/s 148 of the Act by the ITO, Ward-3(3), Jodhpur was without jurisdiction, and therefore, the reassessment framed in the case of the assessee is thus void ab-initio.

3. Per contra, the Id. DR stands by the impugned order, however, he failed to rebut the factual contention raised by the appellant counsel by the assessee that the notice u/s 148 was issued by the non jurisdictional ITO, Ward-3(3), Jodhpur.

4. We have heard the rival contention, perused the record and the impugned order. Admittedly, the notice u/s 148 of the Act was issued by the ITO, Ward-3(3), Jodhpur without having jurisdiction on the present assessee, copy of the notice issued u/s 148 of the Act, (APB Pg. 11) is reproduced as under:

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I.T.N.S.-34  
Speed Post with A/D

**NOTICE UNDER SECTION 143 OF THE INCOME-TAX ACT, 1961**

No.ITOW-3(3)JDH/12-13/866

Office of the  
Income-tax Officer, Ward-3(3)  
Room No.101, Ayakar Bhawan,  
Lal Maidan, Paota-"C" Road, Jodhpur

Date :- 22-3-2013

PAN No.  
To,

Smt. Jayda Gauri W/o  
Shri Abdul Rehman,  
Nai Sarak, Jodhpur /

Sir/Madam,

Whereas I have reason to believe that  
Your income/the income of ..... in respect of which you which  
~~you are assessable/chargeable~~ to tax for the assessment year **2008-09**  
has escaped assessment within the meaning of Section 147 of the Income  
Tax Act,1961.

I, therefore, propose to assess/re-assess the  
income/re-computed loss/depreciation allowance for the said assessment  
year and I hereby require you to deliver to me within 30 days from the date  
of service of this notice, a return in the prescribed form of your  
income/the income of .....in respect of which your are  
assessable for the above assessment year

Seal

(Ram Prakash)  
Income-tax Officer,  
Ward-3(3), Ajmer.  
(राम प्रकाश)  
आयकर अधिकारी  
वार्ड-3(3), जोधपुर

5. It is evident from the assessment record that the notice u/s 148 was issued by the ITO, Ward-3(4), Jodhpur as above which has no jurisdiction over the instant case of the appellant assessee. Consequently, the case was transferred to ITO, Ward-3(4), Jodhpur as per jurisdiction who has passed the assessment order 143/147 of the assessment order dated 05.02.2014 without issuing notice u/s 148 of the Act. In our view, issuance of notice u/s 148 by the ITO, Ward-3(3), Jodhpur without having jurisdiction over the appellant assessee rendered the assessment proceedings void ab-initio. In view of that matter, the assessment order by the AO liable to be quashed. Our view get supports from the decision of ITAT Delhi Bench on identical facts in the case of the Mukesh Kumar v. ITO in ITA No. 2358/Del/2012 dated 12.06.2015 wherein the Tribunal has quashed the reassessment framed relying on the decision in the case of (i) Y. Narayana Chetty v. ITO 35 ITR 388, 392 (SC), (ii) CIT v. Maharaja Pratap Singh Bahadur 41 ITR 421 (SC), (iii) CIT v. Robert 48 ITR 177 (SC) and (ii) CIT v. M/s MT Builders Pvt. Ltd. [2012] 349 ITR 271 (All. HC).

6. In view of the settled principle of law by the Hon'ble Apex Court, we quashed the reassessment proceedings, since there was no valid notice

pursuant to which the reassessment proceedings was made in the instant case. Accordingly, the assessment order framed by the AO is quashed.

7. In the result, the appeal of the assessee is allowed.

*Order pronounced in the open court on 13.10.2023*

**Sd/-  
(Anikesh Banerjee)  
Judicial Member**

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

*\*GP/Sr.PS\**

Copy of the order forwarded to:

1. The Appellant
2. The Respondent
3. The CIT
4. The CIT (A)
5. The DR
6. Guard File

**Assistant Registrar**  
Jodhpur Bench