

Central Circle -31, New Delhi (Ld. AO) assessing the gross total income of the appellant at Rs. 44,22,770/- as against the revised gross income amounting to Rs. 16,70,971/-;

2. That on the facts and circumstances of the case and in law, the proceedings initiated are bad in law as no notice under Section 143(2) of the Act was validly served on the assessee before the limitation period;

3. That on the facts and circumstances of the case and in law Hon'ble CIT(A) grossly erred in rejecting the submission of the assessee that the notice issued under Section 143(2) is bad in law being issued without jurisdiction;

4. That on the facts and circumstances of the case and in law, the Ld. CIT(A) grossly erred in upholding the addition amounting to Rs. 12,50,000/- made by the Ld. AO under Section 69A of the Act pertaining to the cash found from the locker.

4.1. That on the facts and circumstances of the case and in law, the addition made by the Ld. AO amounting to Rs. 12,50,000/- as sustained by the Ld. CIT(A) is made on surmises and conjectures, on notional basis without any relevant basis and cogent evidence and reasoning;

5. That on the facts and circumstances of the case and in law, the addition made by the Ld. AO is contradictory to the satisfaction of the Ld. AO recorded in the case of M/s Shankar Lal Ved Prakash in terms of provisions of Section 153C of the Act;

6. *That on the facts and circumstances of the case and in law, the addition made by the Ld. AO amounting to Rs. 12,50,000/- as sustained by the Ld. CIT(A) tantamount to double jeopardy;*

7. *That on the facts of the case and in law, the Ld. CIT(A) and the Ld. AO grossly erred in not considering the revised computation of income filed by the Appellant on record, claiming long term capital loss amounting to Rs. 2,13,871/- as against the long-term capital gain reported in the return of income amounting to Rs. 15,01,796/-*

7.1. *That on the facts and circumstances of the case and in law, the Ld. AO and Ld. CIT(A) grossly erred in not considering the revised computation of income which is against the mandatory principles of Tax Payers Charter; & That on the facts and circumstances of the case and in law, the order passed by the Ld. CIT(A) is bad in law, void ab initio and be deemed to have never been issued as no mandatory DIN is mentioned;*

9. *That on the facts and circumstances of the case and in law, the order passed by the Ld. CIT(A) is against the principles of natural justice, equity and fair play;*

3. Ground No.8 goes to the root of the matter as it challenges the legality of the order of the CIT(A) as it does not bear DIN.

4. Since this ground goes to the root of the matter we decided to adjudicate it first.

5. The **CBDT Circular No.19/2019 dated 14.08.2019** is binding on the revenue and is as under :-

Circular No. 19 /2019

**Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes**

New Delhi, dated the 14th of August, 2019

Subject: Generation/Allotment/Quoting of Document Identification Number in Notice/Order/Summons/letter/correspondence issued by the Income-tax Department - reg.

With the launch of various e-governance initiatives, Income-tax Department is moving toward total computerization of its work. This has led to a significant improvement in delivery of services and has also brought greater transparency in the functioning of the tax-administration. Presently, almost all notices and orders are being generated electronically on the Income Tax Business Application (ITBA) platform. However, it has been brought to the notice of the Central Board of Direct Taxes (the Board) that there have been some instances in which the notice, order, summons, letter and any correspondence (hereinafter referred to as "communication") were found to have been issued manually, without maintaining a proper audit trail of such communication.

2. In order to prevent such instances and to maintain proper audit trail of all communication, the Board in exercise of power under section 119 of the Income-tax Act, 1961 (hereinafter referred to as "the Act"), has decided that no communication shall be issued by any income-tax authority relating to assessment, appeals, orders, statutory or otherwise, exemptions, enquiry, investigation, verification of information, penalty, prosecution, rectification, approval etc. to the assessee or any other person, on or after the 1st day of October, 2019 unless a computer-generated Document Identification Number (DIN) has been allotted and is duly quoted in the body of such communication.

3. In exceptional circumstances such as, —

- (i) when there are technical difficulties in generating/allotting/quoting the DIN and issuance of communication electronically; or
- (ii) when communication regarding enquiry, verification etc. is required to be issued by an income-tax authority, who is outside the office, for discharging his official duties; or
- (iii) when due to delay in PAN migration, PAN is lying with non-jurisdictional Assessing Officer; or
- (iv) when PAN of assessee is not available and where a proceeding under the Act (other than verification under section 131 or section 133 of the Act) is sought to be initiated; or
- (v) When the functionality to issue communication is not available in the system,

the communication may be issued manually but only after recording reasons in writing in the file and with prior written approval of the Chief Commissioner / Director General of income-tax. In cases where manual communication is required to be issued due to delay in PAN migration, the proposal seeking approval for issuance of manual communication shall include the reason for delay in PAN migration. The communication issued under aforesaid circumstances shall state the fact that the communication is issued manually without a DIN and the date of obtaining of the written approval of the Chief Commissioner / Director General of Income-Tax for issue of manual communication in the following format-

“ .. This communication issues manually without a DIN on account of reason/reasons given in para 3(i)/3(ii)/3(iii)/3(iv)/3(v) of the CBDT Circular No ...dated (strike off those which are not applicable) and with the approval of the Chief Commissioner / Director General of Income Tax vide number dated ”

4. Any communication which is not in conformity with Para-2 and Para-3 above, shall be treated as invalid and shall be deemed to have never been issued.

5. The communication issued manually in the three situations specified in para 3- (i), (ii) or (iii) above shall have to be regularised within 15 working days of its issuance, by –

- i. uploading the manual communication on the System.
- ii. compulsorily generating the DIN on the System;
- iii. communicating the DIN so generated to the assessee/any other person as per electronically generated pro-forma available on the System.

6. An intimation of issuance of manual communication for the reasons mentioned in para 3(v) shall be sent to the Principal Director General of Income-tax (Systems) within seven days from the date of its issuance.

7. Further, in all pending assessment proceedings, where notices were issued manually, prior to issuance of this Circular, the income-tax authorities shall identify such cases and shall upload the notices in these cases on the Systems by 31th October, 2019.

8. Hindi version to follow.


(Sarita Kumari)
Director (ITA.II), CBDT

(F.No. 225/95/2019-ITA.II)

Copy to:-

- i. PS to FM/OSD to FM/PS to MoS(F)/OSD to MoS(F)
- ii. PS to Secretary (Revenue)
- iii. Chairman, CBDT & All Members, CBDT
- iv. All Pr.CCsIT/ Pr.DsGIT
- v. All Joint Secretaries/CsIT, CBDT
- vi. C&AG
- vii. CIT (M&TP), Official Spokesperson of CBDT
- viii. O/o Pr. DGIT(Systems) for uploading on official website
- ix. Addl.CIT (Database Cell) for uploading on the departmental website


(Sarita Kumari)
Director (ITA.II), CBDT

7. Clause-4 of the aforementioned circular when read with clause-2 makes the appellate order not in conformity with the mandate of the circular and, therefore, it shall be treated as invalid and deem to have never been issued.

8. In the light of the circular the order of the first appellate authority is treated as invalid and has never been issued.

9. However, the CIT(A) is at liberty to reframe the appellate order in line with the mandate of CBDT circular (supra) after affording a reasonable and adequate opportunity of being heard to the assessee.

10. In the result, the appeal of the assessee is allowed for statistical purpose.

11. Decision announced in the open court on 19.12.2023.

Sd/-
(SAKTIJIT DEY)
VICE PRESIDENT

NEHA

Date:- .12.2023

Copy forwarded to:

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

Sd/-
(N. K. BILLAIYA)
ACCOUNTANT MEMBER

ASSISTANT REGISTRAR
ITAT NEW DELHI