

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

**BEFORE SHRI SAKTIJIT DEY, VICE-PRESIDENT AND  
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

**In ITA No.3536/Del/2017  
Assessment Year: 2006-07**

DCIT, Circle-24(3), New Delhi	<b>Vs.</b>	M/s. Suruchi Foods Pvt. Ltd., C-1/35Safdarjung Development Area, New Delhi-1100 16
<b>PAN :AADCS5011M</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

**Cross-Objection No. 115/Del/2023  
(In ITA No.3536/Del/2017)  
Assessment Year: 2006-07**

M/s. Suruchi Foods Pvt. Ltd., C-1/35Safdarjung Development Area, New Delhi-1100 16	<b>Vs.</b>	DCIT, Circle-24(3), New Delhi
<b>PAN :AADCS5011M</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

Department by	Shri Anuj Garg, Sr. DR
Assessee by	Shri Raj Kumar, CA & Shri JP Sharma, Adv.

Date of hearing	06.12.2023
Date of pronouncement	22.12.2023

## **ORDER**

### **PER SAKTIJIT DEY, VICE-PRESIDENT**

The appeal by the Revenue and cross-objection by the assessee arise out of order dated 30.03.2017 of learned Commissioner of Income-Tax (Appeals)-28, New Delhi for the assessment year 2006-07.

2. The only effective ground raised by the Revenue reads as under:

“On the facts and circumstances of the case and also in law, the Ld. CIT(A) erred in quashing the assessment order framed by the AO u/s 147/144 as the service of notice u/s. 148 was invalid. The Ld. CIT(A) held the notice u/s. 148 invalid in spite of the fact that in remand report, the AO has submitted that the notice u/s. 148 was rightly served on the Registered Office of the assessee company as assessee itself in the affidavit, filed by it during appellate proceedings, submitted that the said premise continues to be the registered office of the company and also the address is same as appeared in the return of income filed by the assessee company for AY 2006-07.”

3. Briefly, the facts relating to the issue in dispute are, assessee is a resident corporate entity stated to be engaged in the business of manufacture of savoury, snacks foods etc.

4. For the assessment year under dispute, assessee filed its return of income on 31.03.2008 declaring income of Rs.48,48,907. The return of income so filed by the assessee was processed under Section 143(1) of the Income-Tax Act,1961. Subsequently, Assessing Officer received information from the Investigation Wing indicating that the assessee has received bogus entry of Rs.2,00,00,000 from M/s. Tuticorin Trexim Pvt. Ltd. Based on such information, the Assessing Officer reopened the assessment under Section 147 of the Act and issued a notice under Section 148 of the Act on 25.03.2013 requiring the assessee to file its return of income. As observed by the Assessing Officer, assessee did not comply with the said notice. Due to such non-compliance, Assessing Officer proceeded to complete the assessment to the best of his judgment by invoking the provisions of section 144 of the Act. Ultimately, he completed the assessment by adding back the amount of Rs.2 crores. Against the assessment order so passed, assessee preferred an appeal before learned First Appellate Authority, inter alia, on the ground that in absence of valid service of notice under Section 148 of the Act, the assessment order is invalid.

5. Having gone through the facts and material on record and being convinced with the submissions of the assessee, learned Commissioner (Exemption) held that the notice under Section 148 of the Act was not at all served on the assessee in the proper address. Accordingly, he held that the assumption of jurisdiction under Section 147 of the Act and the consequential reassessment is void ab initio. Thus, based on the aforesaid reasons, he quashed the assessment order.

6. Having considered rival submissions, we find that, though, earlier registered office of the assessee was at C-1/35, Safdarjung Enclave, New Delhi, however, it was subsequently shifted to AB-16, Community Centre, Safdarjung Enclave, New Delhi. It is observed from the material on record that after change of address of the registered office, assessee has been filing its return of income from the assessment year 2010-11 onwards in the new address. In fact, all official communications by the Assessing Officer is made with the assessee in the new address. Even, the new address has been updated in the PAN database. Thus, it is a fact on record that new address of the assessee was within the knowledge of the Assessing Officer.

Whereas, section 148, notice has been issued to the assessee in the old address and since the assessee has shifted from the old address since long, it was not found there and service was effected through affixture and assessment proceedings was completed ex parte under Section 144 of the Act.

7. Thus, the facts on record clearly reveal that, though, assessee's new address was available in the assessment records of the Assessing Officer, however, without making any effort to serve the notice issued under Section 148 of the Act in the proper address, the Assessing Officer chose to send the notice on the old address and service was effected through affixture without making any effort to exhaust the other modes available and without making any effort to find out the correct address of the assessee from the assessment records relating to subsequent assessment years. Thus, in our view, no fault can be found in the decision of learned First Appellate Authority in holding the assumption of jurisdiction under Section 147 of the Act to be invalid due to non-service of notice under Section 148 of the Act. Accordingly we uphold the order of learned Commissioner (Appeals) by dismissing the ground raised.

8. In the result, the appeal is dismissed
9. In view of our decision in respect of Revenue's appeal as aforesaid, the cross-objection of the assessee becomes infructuous, hence, dismissed.
10. In the result, both appeal and cross-objection are dismissed.

***Pronounced in the open court on 22.12.2023.***

***Sd/-***  
**( M. BALAGANESH )**  
**ACCOUNTANT MEMBER**

***Sd/-***  
**(SAKTIJIT DEY)**  
**VICE-PRESIDENT**

**Dated: 22<sup>nd</sup> December, 2023**  
**Mohan Lal**

Copy forwarded to:

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

Asst. Registrar, ITAT, New Delhi