

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "SMC" DELHI**

**BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

I.T.A. No.3356/DEL/2023

Assessment Year 2015-16

S.S. Enterprises F-86, New Seelampur New Delhi	Vs.	DCIT Central Circle-06 Delhi
TAN/PAN: ACRFS9957K (Appellant)		(Respondent)

Appellant by:	Shri Pranshu Singhal, CA		
Respondent by:	Ms. Kirti Sankratyayan, Sr.DR		
Date of hearing:	02	01	2024
Date of pronouncement:	02	01	2024

**ORDER**

**PER PRADIP KUMAR KEDIA-A.M. :**

The captioned appeal has been filed by the assessee against the order of the Commissioner of Income Tax (Appeals)-XXIV, Delhi ('CIT(A)' in short) dated 03.10.2023 arising from the assessment order dated 30.03.2022 passed by the Assessing Officer (AO) under Section 147 r.w. Section 143(3) of the Income Tax Act, 1961 (the Act) concerning AY 2015-16.

2. When the matter was called for hearing, the ld. counsel for the assessee stated at the outset that both the assessment order passed under Section 147 r.w. Section 143(3) dated 30.03.2022 as well as the notice of demand issued under Section 156 suffers from substantial defect owing to the fact that none of these two communications bear any Document Identification Number (DIN) mandated by Circular No.19/2019 dated 14.08.2019. The

Id. counsel also submitted that the assessee had questioned the non-availability of DIN on the body of notice of demand before the CIT(A) which was decided with disfavor. However, the assessee also now raised the grounds of appeal no.2 to contend that the assessment order itself is vitiated due to violation of Circular No.19 of 2019 as such assessment order do not bear any DIN in the body of the order. The DIN has been separately marked for such assessment order by a separate intimation letter dated 30.03.2022 issued on 31.03.2022. Such intimation letter to communicate the DIN separately outside, the assessment order is not permissible in view of the CBDT Circular as interpreted by several High Courts and the Division Benches.

2.1 The Id. counsel also sought permission to read ground no.2 of the main grounds as additional grounds filed under Rule 11 of the income Tax (Appellate Tribunal) Rules 1963. In the wake of the glaring facts, such leave is granted and the ground raised being purely legal in nature and having regard to that it emanates from the facts on record. Such ground is admitted for adjudication.

2.2 The Id. counsel adverted to the assessment order passed under Section 147 r.w. Section 143(3) of the Act and pointed out that there is no reference to any DIN in the body of the assessment order as required by the circular. However, a separate intimation letter dated 30.03.2022 has been issued which assigns DIN to the assessment order. The Id. counsel submitted that the assessment order has been issued on 30.03.2022 which read in conjunction with notice issued under Section 271(1)(c) of the Act whereas the intimation letter dated

30.03.2022 has been actually issued on the next date, i.e., 31.03.2022 as demonstrable from the screen shot obtained from the Income Tax portal placed on record. It was thus contended that firstly, the DIN is not recorded in the body of the communication, i.e., assessment order under Section 147 of the Act and consequently such DIN has been intimated to the assessee after the issuance of the assessment order. No reasons have been assigned for not assigning the DIN in the body of the assessment order.

2.3 The Id. counsel pointed out that such a situation has been clearly addressed by the Hon'ble Bombay High Court in the case of *Ashok Commercial Enterprises vs. ACIT, 459 ITR 100 (Bom.)*. The Hon'ble High Court took note of the circular in a nuanced manner and observed that where the DIN is not found mentioned in the body of the assessment order and no reason has been provided for not mentioning DIN number in the order of the Assessing Officer, in such a situation, the assessment order will lose its validity. Subsequent separate communication of DIN is a superfluous exercise as observed by the Hon'ble High Court.

2.4 Similar view has been expressed by the Co-ordinate Benches rendered in the case of *Smt. Sharda Devi Bajaj and others vs. DCIT, ITA No. 3006, 3008 & 3009/Del/2006 dated 15.11.2023; Abhimanyu Chaturvedi and Ors vs. CIT, ITA No.2486, 2487 & 2488/Del/2022 dated 03.08.2023; Tregarron Ltd. vs. ACIT, ITA No.307, 308 & 309/Del/2023 order dated 09.11.2023*. The Id. counsel submitted that all the judgments have stated in chorus that it is mandatory in the light of the CBDT Circular that DIN number is required to be compulsorily

mentioned in the body of the communication as defined in the circular which includes the assessment order as well as the notice of demand in question subject to exceptional circumstances as provided in paragraph 3 of the CBDT circular. The ld. counsel pointed out that no such exceptional circumstances as listed in paragraph 3 of the circular has been demonstrated in the present case. The ld. counsel thereafter referred to the decision rendered by the Co-ordinate Bench in *Finesse International Design Pvt. Ltd. vs. ACIT, ITA No.1298/Del/2021 dated 13.12.2023* to submit that no DIN has been assigned at all to the notice of demand without which the assessment order is of no consequence. Under such circumstances also, the assessment order is rendered superfluous. The ld. counsel thus submitted that the assessment order as well as the notice of demand requires to be quashed on this preliminary ground alone.

3. The ld. DR for the Revenue in rebuttal submitted that DIN has been duly issued in so far as the assessment order is concerned as intimated by separate intimation letter dated 30.03.2022. Substantial compliance to the CBDT circular has thus been made. It was further submitted that the circular of the CBDT should not be read like a statute to give such strict interpretation where compliance of identification of assessment order on the records of Income Tax Department has been carried out. The ld. DR thus submitted that the assessment order should not be disturbed based on such purported procedural defect.

4. I have carefully considered the rival submissions and perused the assessment order, the notice of demand and also the

first appellate order. The material referred to and relied upon in the course of hearing has been taken into account in terms of Rule 18(6) of the Income Tax (Appellate Tribunal) Rules 1963.

4.1 It is the case of the assessee that assessment order as well as the notice of demand do not survive in law and is rendered nonest due to non mentioning of DIN in the body of such communication/order as called upon by CBDT Circular No.19 of 2019 dated 14.08.2019. I observe that DIN has not been mentioned in the body of assessment order. However, DIN has been separately issued and intimated to the assessee vide letter dated 30.03.2022 which appears to have been issued on 31.03.2022, i.e., subsequent to the issuance of assessment order. Thus, it is evident that at the time of issue of assessment order DIN was not assigned. Be that as it may, no DIN is found in the body of the assessment order. Similarly, no DIN has been generated at all while issuing the notice of demand under Section 156 of the Act.

4.2 The issue is found to be squarely covered in favour of the assessee in the judgment rendered in *Ashok Commercial (supra)* and thus rendered by the Tribunal in *Smt. Sharda Devi (supra)*, *Abhimanyu Chaturvedi and Ors. (supra)*, *Pratap Singh Yadav (supra)*, *Tregarron Ltd. (supra)*, *Finesse International Design Pvt. Ltd. (supra)*.

4.3 In consonance with the view expressed in the judgments noted above, I am constraint to observe that the assessment order, giving rise to the cause of action in the present appeal, is nonest in law. Likewise, notice of demand under Section 156 is

also nonest and bad in law.

4.4 I therefore find merit in the plea of the assessee for quashing the assessment order at the threshold. The assessment order as well as the notice of demand in question thus stands quashed.

5. In such a view of the matter, I am not inclined to address the issue raised on merits.

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

**Order was dictated and pronounced in the open Court on 02/01/2024**

Sd/-

**[PRADIP KUMAR KEDIA]  
ACCOUNTANT MEMBER**

DATED: /01/2024

*Prabhat*

Copy forwarded to:

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

Assistant Registrar

		Date
1.	Draft dictated on	02.01.2024
2.	Draft placed before author	02.01.2024
3.	Draft proposed & placed before the second member	
4.	Draft discussed/approved by Second Member.	
5.	Approved Draft comes to the Sr.PS/PS	
6.	Kept for pronouncement on	
7.	File comes back to PS/Sr. PS	
8.	Uploaded on	
9.	File sent to the Bench Clerk	
10.	Date on which file goes to the AR	
11.	Date on which file goes to the Head Clerk.	
12.	Date of dispatch of Order.	