

**THE INCOME TAX APPELLATE TRIBUNAL  
“A” BENCH, DELHI**

**BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER  
& MS. MADHUMITA ROY, JUDICIAL MEMBER**

**ITA No. 5596/Del/2019  
(Assessment Year 2009-10)**

Shri Ashok Kumar S/o Shri Sukhvir Singh, Village – Mehroli, Post Kavi Nagar, Ghaziabad (U.P.) 201002	Vs.	Income Tax Officer, Ward-1(1) Ghaziabad (UP) CGO-1 Kamla Nehru Nagar, Hapur Road, Ghaziabad (UP) 201002
स्थायीलेखासं. / जीआइआरसं. / PAN/GIR No: ALXPK7744H		
Appellant	..	Respondent

Appellant by :	Sh. Satyajeet Goel, Adv.
Respondent by :	Sh. Kanv Bali, Sr. D.R

Date of Hearing	08.07.2024
Date of Pronouncement	04.10.2024

ORDER

**PER MADHUMITA ROY, JM:**

The instant appeal filed by the assessee is directed against the order dated 30.04.2019 passed by the Ld. CIT(A) Ghaziabad arising out of the order dated 17.10.2016 under Section 147/144 of the Income Tax Act, 1961 for Assessment Year 2009-10. The main ground of appeal raised by the assessee challenging the order passed by the Assessing Officer in making addition for non-compliance with the notice issued under Section 148 and 142(1) by

the appellant as the same was never received by the appellant before us.

2. During the year under consideration the assessee made cash deposit of Rs.17,57,000/- in the saving bank account during the financial year 2008-09. After recording reasons notice under Section 148 of the Act has been issued on 10.03.2016 upon approval of the Ld. PCIT, Ghaziabad, which was served through affixture to the assessee as claimed by the Assessing Officer. Subsequently, notice under Section 142(1) dated 09.05.2016 and then 20.07.2016 are claimed to have been served upon the assessee by the AO. No compliance of the notice and questionnaire since made by the assessee, reassessment was concluded upon making addition of Rs.17,57,000/- in the hands of the assessee which was further confirmed by the First Appellate Authority. Hence, the instant appeal before us.

3. The case of the assessee before us is this that no notice under Section 148 of the Act dated 10.03.2016 was served upon the assessee. As service of such notice upon the assessee is the jurisdictional requirement, mandatory in nature and not a procedural formality, the finalization of the reassessment proceeding without effecting proper service of such notice upon the assessee is invalid and liable to be quashed as the crux of the argument advance by the Ld. A.R.

4. On the contrary, the Ld. D.R has filed the report, perusal of which it appears that the assessee has duly been served with the

notice under Section 148 of the Act, dated 10.03.2016 through speed post No. EU490272028IN on the very next day on 11.03.2016 on the address of the assessee i.e Shri Ashok Kumar Chaudhary S/o Sukhveer Singh H. No. 34 Village Mehrauli, PO-Shahpur Bamheta, Ghaziabad. However, the acknowledgement of service that the same has been received by the assessee has not been filed by the revenue before us so as to establish that service of notice issued under Section 148 of the Act dated 10.03.2016 has been effected, in the absence of which concluding the reassessment proceeding upon making the addition is not sustainable in the eye of law. In this regard, the Ld. Counsel appearing for the assessee relied upon very many judgments including judgment passed by the Hon'ble Jurisdictional High Court in the case of CIT, Central-1, Vs. Chetan Gupta, reported in (2015) 62 taxman.com 249 (Delhi) wherein it has been held that in order to complete reassessment notice under Section 148 has to be mandatorily served upon the assessee in accordance with Section 282(1), r.w. Order, Rule 12CPC and Order III, Rule 6CPC and the Ld. D.R has failed to bring to our notice any judgment passed by the judicial forum contrary to the ratio laid down in the judgment passed by the Hon'ble Delhi High Court as mentioned hereinabove as relied upon by the Ld. A.R.

5. Having regard to the entire aspect of the matter as the revenue has failed to show the acknowledgment of such service of notice issued u/s 148 of the Act claimed to have been made upon the

assessee the proceeding initiated against the assessee under Section 147/148 of the Act is found to be void-ab-initio and therefore, liable to be quashed. Consequently, the conclusion of the reassessment proceeding upon making addition is found to have no basis and thus, deleted.

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

Order pronounced in the open court on 04.10.2024

Sd/-  
(Shamim Yahya)  
ACCOUNTANT MEMBER

Sd/-  
(Madhumita Roy )  
JUDICIAL MEMBER

Dated 04.10.2024

PS: Rohit

Copy forwarded to:

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

ASSISTANT REGISTRAR

ITAT NEW DELHI