

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH: 'A': NEW DELHI)**

**BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER
AND
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER**

**ITA No:-1213/Del/2024
(Assessment Year- 2012-13)**

Amardeep S/o Sh. Rajpal Singh, 855, VPO Chimni (132), Tech Beri Dist. Jhajjar, Haryana-124412.	Vs.	Income Tax Officer, Ward-1, Aayakar Bhawan, Opp. Mansarovar Park, Rohtak, Haryana.
PAN No:APGPA1158Q		
APPELLANT		RESPONDENT

Assessee by : Shri R K Mehra, CA
Revenue by : Shri Ashish Tripathi, Sr. DR

Date of Hearing : 11.03.2025
Date of Pronouncement : 21.03.2025

ORDER

PER AMITABH SHUKLA, AM:

This appeal by Assessee is directed against the order of National Faceless Appeal Centre, Delhi, [for short hereinafter referred to as the ["Ld. CIT(A)"] dated 21.01.2024 for Assessment Year 2012-13.

2. Form 36 appended with the appeal memo indicates that the assessee has assailed the order of Ld. First appellate Authority both on legal grounds as well as on the merits of the additions. Thus, grounds of appeal no. 1-3 are legal grounds regarding the jurisdictional insufficiency of the Ld. AO in invoking proceedings u/s 147 r.w.s 148 of the case and grounds of appeal no. 4-5 are challenging merits of the addition. As, grounds of appeal no. 1-3 are legal grounds regarding the jurisdictional insufficiency of the Ld. AO and they lie at the base of the controversy, the same are examined first.

3. The ld. Council of the assessee submitted that the entire controversy seminal to the grounds of appeal no. 1-3 are legal grounds regarding the jurisdictional insufficiency of the Ld. AO emanates from the fact that the Revenue, inspite of seized of the incontrovertible fact that the assessee was based out of Jhajjar, Haryana, had issued Notices u/s 147 r.w.s 148 in its case at its Dwarka Delhi address. It was submitted that as the notices per se were sent on the wrong address and hence suffering from jurisdictional insufficiency, the corresponding assessment

order u/s 143(3) would not survive. In support of his argument the Ld. Council has filed detailed paper book evidencing a plethora of documents indicating that department was suitably and timely informed of its Jhajjar, Haryana. The Ld. Council for the assessee has submitted that long ago it had its address as "MIG 353 GF3, PH-II, Pocket-B, Sec-18, Dwarka 110075, delhi". The Ld. Council for the assessee submitted that subsequently the assessee shifted its base to "VPO Chimni 855, TECH Beri district Jhajjar, Haryana 124103". The Ld. Council for the assessee submitted that the impugned new address is evidenced in form 26AS for AY 2010-11, AY 2011-12, AY 2012-13, 2013-14, 2014-15, 2015-16 etc. (page 3-14 of paper book), The Ld. Council has submitted that return of income for AY 2012-13 was filed on 1/8/2019 with above Jhajjar address (page 36 of paper book). The Ld. Council has submitted that in the approval accorded by Ld. CIT dated 24.03.2019 to reopen its case also the Revenue has shown its Jhajjar address (page 92 of the paper book). The Ld. Council has argued that in spite of these clear fact, notice u/s 148 was issued at its "MIG 353

GF3, PH-II, Pocket-B, Sec-18, Dwarka 110075, delhi” (page 1 of the paper book).

4. It is the case of the assessee that its assessment for AY 2011-12 was conducted on 27.11.2018 at its Jhajjar address (page 32,33 of the paper book). The Ld. Council has submitted that, the AO to correct his mistake, during the assessment proceedings issued notice u/s 142(1) dated 29.07.2019 at its Jhajjar address. The Ld. Council submitted that during the assessment proceedings it had challenged the proceedings on the wrong address, which were overruled (page 66 of the paper book). The assessee furnished a screenshot of the ITD qua issue of the notice u/s 148 to show that there was no mention of its Jhajjar address. The Ld. Council placed reliance inter alia upon a catena of the judgements including Dart Infra Build Pvt. Ltd. 460 ITR 532& Chetan Gupta 382 ITR 613 (Delhi high court) as well as Rajiv Gupta ITR No. 1166/del/2024 of this tribunal, holding that assessment orders based on notices issued on wrong address cannot survive. The Ld. Council submitted that in view of these facts the order of Ld. First Appellate Authority is not based upon correct and understanding to appreciation of the

facts of the case and hence deserves to be set aside. The Ld. Council has requested for quashing the assessment order u/s 143(3), resting upon such defective Notices u/s 147 r.w.s 148.

5. The Ld. DR vehemently argued in favour of the order of Ld. Assessing officer and its affirmation by Ld. CIT (A). It was submitted that assessee is non filer and therefore AO's action cannot be faulted. The Ld. DR produced screenshot of some whatsapp chats to suggest that notices were also issued on the Jhajjar address. Accordingly, request was made to dismiss the appeal of the assessee.

6. We have heard rival submissions material available on the records. Evidences available on the record clearly suggest that the change the address from delhi to Dwarka was timely and appropriately not only conveyed to the department but also evidenced from departments own records. Thus, we find sufficient force in the argument of the assessee that the notice u/s 147 r.w.s 148 issued to it suffers from incorrigible defect of having been sent on wrong address. We are unable to subscribe to the argument of Ld. DR that a simultaneously notice issued on the Jhajjar address

would rescue its case. Accordingly, we are of the considered view that as the notice 147 r.w.s 148 issued to assessee suffers from incorrigible defect of having been sent on wrong address, the consequent assessment order u/s 143(3) cannot survive. When the foundation being the notice 147 r.w.s 148 fails, the super structure being the assessment order u/s 143(3) would also collapse. We, therefore, set aside the order of lower authorities and quash the assessment order u/s 143(3) r.w.s 147/148, dated 23.12.2019. The grounds of appeal 1-3 raised by the assessee is allowed.

7. In so far as other grounds of appeal no. 4-5 on merits, they have become academic since the assessee succeeds on jurisdictional issue.

8. In the result appeal of the assessee is allowed.

-Sd/-

(VIKAS AWASTHY)
JUDICIAL MEMBER

-Sd/-

(AMITABH SHUKLA)
ACCOUNTANT MEMBER

Dated 21'03/2025.

Pooja/-

Copy forwarded to:

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

ASSISTANT REGISTRAR

ITAT NEW DELHI

1.	Date of dictation of Tribunal order	13.03.25
2.	Date on which the typed draft Tribunal Order is placed before the Dictating Member	
3.	Date on which the typed draft Tribunal order is placed before the other Member	
4.	Date on which the approved draft Tribunal order comes to the Sr. PS/PS	
5.	Date on which the fair Tribunal order is placed before the Dictating Member for pronouncement	
6.	Date on which the signed order comes back to the Sr.PS/PS	
7.	Date on which the final Tribunal order is uploaded by the Sr.PS/PS on official website	
8.	Date on which the file goes to the Bench Clerk alongwith Tribunal order	
9.	Date of killing off the disposed of files on the judisis Portal of ITAT by the Bench Clerks	
10.	Date on which the file goes to the Supervisor (Judicial)	
11.	The date on which the file goes to the Assistant Registrar for endorsement of the order	
12.	Date of Despatch of the order	