

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

**BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER
and
SHRIS.RIFAUR RAHMAN, ACCOUNTANT MEMBER**

**ITA No.2344/DEL/2024
(Assessment Year: 2015-16)**

Anita Jha,
112, Second Floor,
Ghaziabad Ashiana Green Apartments,
Indirapuram,
Ghaziabad – 201 014 (Uttar Pradesh).

vs.

DCIT, Central Circle 2,
Delhi.

(PAN : AFCPJ7394B)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri Salil Agarwal, Sr. Advocate
Shri Shailesh Gupta, Advocate
Shri Madhur Agarwal, Advocate
REVENUE BY : Shri Ashish Tripathi, Sr. DR

Date of Hearing : 24.04.2025

Date of Order : 27.06.2025

ORDER

PER S.RIFAUR RAHMAN, ACCOUNTANT MEMBER :

1. The assessee has filed appeal against the order of Id. Commissioner of Income-tax Appeals-23, New Delhi [hereinafter referred to as 'Id. CIT (A)] dated 16.03.2024 for Assessment Year 2015-16.
2. At the time of hearing, Id. AR of the assessee raised a jurisdictional issue of reopening of the assessment without disposing of various objections raised by the assessee. In this regard, Id. AR brought to our notice relevant sequence of dates

involved in this appeal. Ld. AR brought to our notice that assessee filed its return of income on 31.10.2015 and raised initial objection of non-issue of notice under section 143(2) of the Income-tax Act, 1961 (for short 'the Act'). He submitted that date of service of notice u/s 148 is 18.03.2018, therefore, notice was issued within six years. He brought to our notice page 83 of the paper book which is the notice issued u/s 148 of the Act dated 31.03.2021 and further brought to our notice page 89 of the paper book which is the letter issued to the AO requesting for copy of reasons recorded for reopening of the assessment proceedings. Further he brought to our notice page 375 of the paper book which is a letter issued by the AO forwarding copy of satisfaction recorded for reopening u/s 148 of the Act and brought to our notice page 377 of the paper book which is the detailed reasons forwarded to the assessee. Further he brought to our notice page 379 which is the acknowledgement of filing of reply by the assessee through e-portal and brought to our notice pages 380 to 384 of the paper book which is the detailed objections raised by the assessee before the AO on 22.03.2022. However, he submitted that AO has not disposed off the assessee's objections before passing the assessment order.

3. Further he brought to our notice page 15 of the appellate order wherein ld. CIT (A) has reproduced the objections disposed off by the AO u/s 148 of the Act and the same was reproduced at pages 15 to 17 of the appellate order. Ld. AR submitted that ld. CIT (A) has accepted the objections disposed off by the AO just and proper, however he submitted that the ld. CIT (A) has overlooked the fact that the AO has

disposed off the above objections vide letter dated 07.03.2024 and the relevant letter reproduced by the Id. CIT (A) in his order. He submitted that the assessment was passed vide order dated 29.03.2022 whereas the objections were disposed off only on 07.03.2024. He prayed that as per the provisions of section 148 and also decision of Hon'ble Supreme Court in the case of CIT v. Kelvinator of India Ltd.: 320 ITR 561 (SC), it is mandate and duty of the AO to dispose off the objections raised by the assessee before initiating proceedings u/s 148 of the Act at least before passing the assessment order and he prayed that the reassessment proceedings initiated by the AO is bad in law and void ab initio.

4. On the other hand, Id. DR of the Revenue submitted that no reference was brought on record by the assessee that it has raised any objections before the AO and heavily relied on the findings of the Id. CIT (A).
5. Considered the rival submissions and material placed on record. Assessee has raised several jurisdictional issues, however this issue of non-disposal of objections raised by the assessee before initiating the proceedings u/s 148 is more relevant and we are proceeding to dispose off the appeal based on this ground itself. We observed that AO has initiated the reassessment proceedings u/s 148 by recording the reasons and the same was supplied to the assessee on request. Assessee has raised several objections which were filed through e-portal vide acknowledgement dated 22.03.2022 and there is no record brought on record by the Departmental Representative of disposing off the objections before passing or initiating the reassessment proceedings. It is brought to our notice that the disposal of objections

raised by the assessee was reproduced at pages 15 to 17 of the appellate order wherein letter was dated 07.03.2024. It is clear fact on record that the AO has disposed off the objections raised by the assessee for initiation of reassessment proceedings only on 07.03.2024 which is subsequent to passing of the assessment order. It clearly shows that AO has disposed off the objections only during appellate proceedings in order to cover up the mandatory duty cast upon him to initiate the proceedings only after disposal of the objections raised by the assessee. Since objections raised by the assessee was disposed off by the AO only after completing the assessment is clear violation of procedures laid down by Hon'ble Supreme Court in the case of Kelvinator of India Ltd. (supra). Therefore, the initiation of proceedings u/s 148 and completing the assessment without disposal of objections raised by the assessee is bad in law and it is void ab initio. Accordingly, the grounds of appeal raised by the assessee are allowed.

6. Since the grounds on jurisdictional issues are allowed, the issues on merit become academic, therefore, not deliberated upon.
7. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on this 27th day of June, 2025.

**Sd/-
(VIKAS AWASTHY)
JUDICIAL MEMBER**

**sd/-
(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER**

**Dated: 27.06.2025
TS**

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI