

**IN THE INCOME TAX APPELLATE TRIBUNAL "DB" BENCH: PATNA
VIRTUAL HEARING IN KOLKATA**

श्री राजेश कुमार, लेखा सटस्य एवं श्री प्रदीप कुमार चौबे, न्यायिक सदस्य के समक्ष
[Before Shri Rajesh Kumar, Accountant Member & Shri Pradip Kumar Choubey, Judicial Member]

**I.T.A. No. 148/PAT/2025
Assessment Year: 2015-16**

Sunita Agarwal (PAN: AAMPA 5420 G)	Vs.	NFAC, Delhi
Appellant / (अपीलार्थी)		Respondent / प्रत्यर्थी

Date of Hearing / सुनवाई की तिथि	07.07.2025
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	22.07.2025
For the assessee / निर्धारिता की ओर से	Shri Deep Agarwal, Advocate Shri Shubhankar Ghosh, Advocate
For the revenue / राजस्व की ओर से	Sh. Ashwani Kr. Singhal, JCIT

ORDER / आदेश

Per Pradip Kumar Choubey, JM:

This is the appeal preferred by the assessee against order of Commissioner of Income Tax (Appeals)-NFAC, Delhi (hereinafter referred to as the Ld. PCIT] dated 09.01.2024 for AY 2015-16.

2. It appears from the report of the registry that the appeal has been filed after a delay of 358 days for this the assessee has filed condonation petition. On perusal of the

condonation petition, the reason for delay in filing the appeal seems to be genuine and bonafide. The Ld. D.R did not raise any objection in condoning the delay. Keeping in view, the condonation petition as well as judicial pronouncement that the case should be decided on merit not on technical issue, the delay is hereby condoned.

3. Brief facts of the case of the assessee are that the assessee, Smt. Sunita Agarwal, is the wife of Shri Anil Agarwal, filed her return of income for AY 2015-16 on 02.02.2016 declared total income of Rs. 3,58,580/-. The case was reopened u/s.147 of the Act after recording reasons of reopening and after taking necessary approval as per the provision of Act. As per the reasons recorded the assessee had indulged in sale of bogus penny stocks of EML and GBFL and had received Rs. 1,34,97,115/- and claimed the gain of Rs. 1,32,80,076/- as exempt u/s 10(38) of the Act for A.Y.2015-16 Accordingly, a notice u/s.148 of the Act was issued on 31/03/2021 through ITBA and served through e-filing portal on registered e-mail id. In response to notice u/s 148 of the Act, the assessee filed return of income on 22/04/2021 after declaring total income of Rs.3,58,580/- for the AY 2015-16. Thereafter, the AO issued the statutory notices. In response to the said notice, the assessee filed letter dated 12/07/2021 filing objection for reopening. The AO replied to the objections raised by the assessee. During the assessment proceedings, vide a letter dated 12/07/2021 filed before the AO, the assessee has stated that he had sold the shares of Appu Marketing & Manufacturing Ltd (now known as Ejecta Marketing Limited). The purchase of these shares was made on 17/10/2013 at a price Rs.2,00,000/- and the same were sold at a total price of Rs.1,34,80,076/- on various dates in the month of February and March in the year 2015. Resultantly, there was a long term capital gain of Rs.1,32,80,076/- which is exempt u/s. 38 of the Income-tax Act, 1961. The reply of the assessee did not find favour with the AO. After discussing the modus operandi of money laundering by way of purchase and sale of penny stock, the AO has concluded that since there were bogus penny stocks of EML, therefore, exemption u/s 10(38) of the Act was not admissible. Accordingly, the AO treated the amount of Rs. 1,34,97,115/- as assessee's income u/s.68 of the Act for the A.Y 2015-16.

3. Aggrieved by the said assessment order, the assessee preferred an appeal before the Ld. CIT(A) wherein the appeal of the assessee has been dismissed.

Being aggrieved and dissatisfied the assessee preferred an appeal before us.

4. The Ld. A.R challenges the very impugned order thereby submitting that the notice issued u/s 148 was actually issued on 01.04.2021 instead of 31.03.2021, which is invalid in law. In support of his submission, he filed the screenshot of income tax portal. The Ld. A.R has also cited a decision of Co-ordinate Bench of Kolkata passed in the case of Md. Hakimuddin vs. ITO passed in ITA Nos. 1159 & 1160/Kol/2023 for AY 2014-15 and 2015-16 dated 24.06.2024.

5. Contrary to that the Ld. D.R supports the impugned order.

6. Upon hearing the submission of the counsel of the respective parties, we have perused the records and find that in the present case the assessee was served with a notice u/s 148 of the Act in which date has been depicted as **31.03.2021**, however, screen shot of the income tax portal reveals that it was issued on **1.4.2021**. In support of contention the said notice issued beyond statutory time limit, the AR has filed screen shot of the ITBA portal which is as follows:

The screenshot displays the 'View Notices' page for Sunita Agrawal. It lists several notices issued under Section 147 of the Income Tax Act, 1961. The first notice, with reference ID 100044906244, is highlighted in blue and shows an issue date of 03-Mar-2022. Other notices include ITBA/AST/F/17/2021-22/1039523245(1) issued on 08-Feb-2022, ITBA/AST/F/142(1)/2021-22/1039523205(1) issued on 08-Feb-2022, and ITBA/AST/F/143(2)_4/2021-22/1033873125(1) issued on 30-Jun-2021. The page also includes a search bar and navigation options.

Notice/ Communication Reference ID	Description	Issued On	Response Due Date
147 Notice u/s ITBA/AST/F/147(SCN)/2021-22/1040307153(1) Document reference ID	[ITBA]Show Cause Notice for Proceedings u/s 147 of Income Tax Act 1961.	03-Mar-2022	10-Mar-2022
17 Notice u/s ITBA/AST/F/17/2021-22/1039523245(1) Document reference ID	[ITBA]Issue Letter	08-Feb-2022	
142(1) Notice u/s ITBA/AST/F/142(1)/2021-22/1039523205(1) Document reference ID	[ITBA]Notice u/s 142(1) of Income Tax Act 1961.	08-Feb-2022	14-Feb-2022
143(2) Notice u/s ITBA/AST/F/143(2)_4/2021-22/1033873125(1) Document reference ID	[ITBA]Notice u/s 143(2) of Income Tax Act 1961.	30-Jun-2021	15-Jul-2021

Certified to be True Copy
 Deep Agarwal

Notice/ Communication Reference ID : 100033680280

148 Notice u/s	ITBA/AST/S/148/2020-21/1032116785(1) Document reference ID	Description : [ITBA]Notice under section 148 of the Income Tax Act, 1961 Issued On 01-Apr-2021	View Response Notice/Letter Pdf
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Deep Agarwal

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
INCOME TAX DEPARTMENT
OFFICE OF THE INCOME TAX OFFICER
ITO WARD 1(1), MUZF.

To,
 SUNITA AGRAWAL
 O W/O ANIL AGRAWAL , JAWAHARLAL ROAD
 MUZAFFARPUR 842001 , Bihar
 India

PAN: AAMPA5420G	AY: 2015-16	Dated: 31/03/2021	DIN & Notice No : ITBA/AST/S/148/2020-21/1032116785(1)
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Notice Under Section 148 Of The Income Tax Act, 1961

Sir/ Madam/ M/s,

Whereas I have reasons to believe that your Income chargeable to Tax for the Assessment Year **2015-16** has escaped Assessment within the meaning of section 147 of the Income Tax Act, 1961.

I, therefore, propose to assess/ re-assess the income/ loss for the said Assessment Year and I hereby require you to deliver to me within **30** days from the service of this notice, a return in the prescribed form for the said Assessment Year.

This notice is being issued after obtaining the necessary satisfaction of the PCIT, Patna-1

KAUSHAL KUMAR
ITO WARD 1(1), MUZF.

(In case the document is digitally signed please refer Digital Signature at the bottom of the page)

7. It is evident from the documents filed before us that the said notice u/s 148 of the Act was actually issued on 1.4.2021 and not on 31.03.2021. We have also gone through

the cited judgment of Co-ordinate Bench of Kolkata passed in the case of Md. Hakimuddin (supra), the Co-ordinate bench has discussed this issue after following the judgment of Co-ordinate Bench of Kolkata passed in the case of M/s Osian Stock Broking Pvt. Ltd. vs. ITO in ITA no. 375/Kol/2022 dated 12.05.2023. The operative part is reproduced herein below:

“2.4. We have carefully considered the rival contentions and also examined the documents placed before us, specially the screenshots from the ITBA Portal. It is seen that this case is squarely covered in favour of the assessee through the case of M/s. Osian Stock Broking Pvt. Ltd. (supra). The relevant portions from the said order are extracted as under:

“4. We have heard the rival contentions and gone through the records. The notice in this case has been shown to be signed on 30.09.2015, however, the same was emailed to the assessee on 03.11.2015. The Hon’ble Jurisdictional Calcutta High Court in the case of Marudhar Vintrade Pvt. Ltd. vs. Union of India & Ors.’ (supra) considering the facts that the notice u/s 148 of the Act was signed on March 31 2021, however, it was actually uploaded for communication on April 1 2021 at 3 a.m. thereby treating the 1st April 2021 as issuance of impugned notice u/s 148 of the Act, quashed the reassessment proceedings holding that the provisions of Finance Act 2021 would be applicable from 01.04.2021 and therefore, before issuance any notice u/s 148 of the Act, the Assessing Officer was required to observe the statutory formalities u/s 148A of the Act. In the case in hand also, the notice was set in motion only on 03.11.2015, in our humble view, signing of the notice would not constitute as issuance of notice. The date of issuance of notice would be when it is set in motion for delivery to the assessee. So far as the contention of the ld. counsel that the issue of notice u/s 143(2) of the Act within the prescribed period in relation to the reassessment proceedings u/s 147/148 was not mandatory, we find that the issue has been settled by the various High Courts holding that even in the case of reassessment proceedings u/s 147/148 of the Act, the issuance of notice within the specified period u/s 143(2) of the Act is mandatory and that the Assessing Officer cannot assume jurisdiction u/s 143(3) of the Act without issuance of notice u/s 143(2) of the Act and this defect cannot be cured by taking recourse to the deeming fiction provided u/s 292BB of the Act. Reliance in this respect can be placed on the decision of the Delhi High Court in the case of PCIT vs. Shree Jai Shiv Shankar Traders Pvt. Ltd. IT Appeal No.1068 of 2013 dated 18.02.2015; Hon’ble Madras High Court in the case of Saphagiri Finance & Investment vs. ITO reported in (2013) 90 DTR (Mad) 289; Hon’ble Delhi High Court in the case of DIT vs. Society for Worldwide Interbank Financial Telecommunications reported in (2010) 323 ITR 249 (Del); Hon’ble Allahabad High Court in the case of CIT vs. Solarpur Cold Storage P Ltd (2014) 50 Taxmann.com 105 (All); Hon’ble Allahabad High Court in the case of CIT vs. Rajeev Sharma reported in [2011] 336 ITR 678 (All.). Since the Assessing Officer did not issue notice u/s 143(2) of the Act within the specified time period, therefore, the Assessing Officer could not have assumed jurisdiction to frame the assessment u/s 143(3) of the Act and, therefore, the impugned assessment order is bad in law and the same is accordingly held to be non-est.”

8. In the light of discussion above the assessee succeeds on the ground that assumption of jurisdiction itself was faulty and subsequent findings also become void ab-initio.

In the result, the appeal filed by the assessee is allowed on this issue.

Order is pronounced in the open court on 22nd July, 2025

Sd/-

Sd/-

(Rajesh Kumar/राजेश कुमार)

(Pradip Kumar Choubey /प्रदीप कुमार चौबे)

Accountant Member/लेखा सदस्य

Judicial Member/न्यायिक सदस्य

Dated: 22nd July, 2025

SM, Sr. PS

Copy of the order forwarded to:

1. Appellant- Sunita Agrawal, C/o, Agarwal Vishwanath & Associates, 133/1/1A, S. N. Banerjee Road, Pushkal Bhawan, 3rd Floor, Kolkata- 700013.
2. Respondent – NFAC, Delhi
3. Ld. Pr. CIT- , Patna
4. DR, Patna Bench, Patna

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By Order

Sr.Ps/Assistant Registrar
ITAT, Patna Bench, Patna

**IN THE INCOME TAX APPELLATE TRIBUNAL "DB" BENCH: PATNA
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Assessment Year: 2015-16**

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Appellant / (अपीलार्थी)		Respondent / प्रत्यर्थी

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Date of Pronouncement/ आदेश उद्घोषणा की तिथि	22.07.2025
For the assessee / निर्धारिता की ओर से	Shri Deep Agarwal, Advocate Shri Shubhankar Ghosh, Advocate
For the revenue / राजस्व की ओर से	Sh. Ashwani Kr. Singhal, JCIT

ORDER / आदेश

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2. It appears from the report of the registry that the appeal has been filed after a delay of 358 days for this the assessee has filed condonation petition. On perusal of the

condonation petition, the reason for delay in filing the appeal seems to be genuine and bonafide. The Ld. D.R did not raise any objection in condoning the delay. Keeping in view, the condonation petition as well as judicial pronouncement that the case should be decided on merit not on technical issue, the delay is hereby condoned.

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5. Contrary to that the Ld. D.R supports the impugned order.

6. Upon hearing the submission of the counsel of the respective parties, we have perused the records and find that in the present case the assessee was served with a notice u/s 148 of the Act in which date has been depicted as **31.03.2021**, however, screen shot of the income tax portal reveals that it was issued on **1.4.2021**. In support of contention the said notice issued beyond statutory time limit, the AR has filed screen shot of the ITBA portal which is as follows:

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Notice/Communication Reference ID	Description	Issued On	Response Due Date
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100043741002	[ITBA]Issue Letter	08-Feb-2022	
100040818423	[ITBA]Notice u/s 142(1) of Income Tax Act 1961.	08-Feb-2022	14-Feb-2022
100036257714	[ITBA]Notice u/s 142(2) of Income Tax Act 1961.	30-Jun-2021	15-Jul-2021


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Deep Agarwal

Notice/ Communication Reference ID : 100033680280


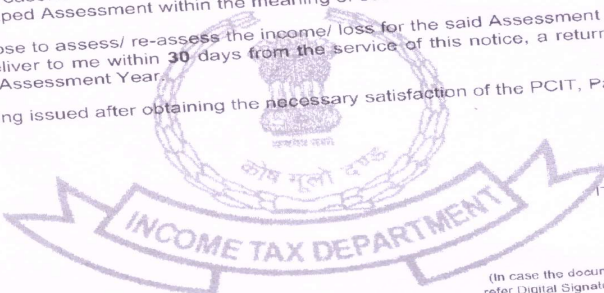
148 Notice u/s	ITBA/AST/S/148/2020-21/1032116785(1) Document reference ID	Description : [ITBA]Notice under section 148 of the Income Tax Act, 1961 Issued On 01-Apr-2021	View Response Notice/Letter Pdf
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 Deep Agarwal

 GOVERNMENT OF INDIA MINISTRY OF FINANCE INCOME TAX DEPARTMENT OFFICE OF THE INCOME TAX OFFICER ITO WARD 1(1), MUZF.			
To,			
SUNITA AGRAWAL O W/O ANIL AGRAWAL , JAWAHARLAL ROAD MUZAFFARPUR 842001 , Bihar India			
PAN: AAMPA5420G	AY: 2015-16	Dated: 31/03/2021	DIN & Notice No : ITBA/AST/S/148/2020-21/1032116785(1)
Notice Under Section 148 Of The Income Tax Act, 1961			
Sir/ Madam/ M/s. Whereas I have reasons to believe that your Income chargeable to Tax for the Assessment Year 2015-16 has escaped Assessment within the meaning of section 147 of the Income Tax Act, 1961. I, therefore, propose to assess/ re-assess the income/ loss for the said Assessment Year and I hereby require you to deliver to me within 30 days from the service of this notice, a return in the prescribed form for the said Assessment Year. This notice is being issued after obtaining the necessary satisfaction of the PCIT, Patna-1			
 INCOME TAX DEPARTMENT			KAUSHAL KUMAR ITO WARD 1(1), MUZF.
<small>(In case the document is digitally signed please refer Digital Signature at the bottom of the page)</small>			

7. It is evident from the documents filed before us that the said notice u/s 148 of the Act was actually issued on 1.4.2021 and not on 31.03.2021. We have also gone through

the cited judgment of Co-ordinate Bench of Kolkata passed in the case of Md. Hakimuddin (supra), the Co-ordinate bench has discussed this issue after following the judgment of Co-ordinate Bench of Kolkata passed in the case of M/s Osian Stock Broking Pvt. Ltd. vs. ITO in ITA no. 375/Kol/2022 dated 12.05.2023. The operative part is reproduced herein below:

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8. In the light of discussion above the assessee succeeds on the ground that assumption of jurisdiction itself was faulty and subsequent findings also become void ab-initio.

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(Rajesh Kumar/राजेश कुमार)

(Pradip Kumar Choubey /प्रदीप कुमार चौबे)

Accountant Member/लेखा सदस्य

Judicial Member/न्यायिक सदस्य

Dated: 22nd July, 2025

SM, Sr. PS

Copy of the order forwarded to:

1. Appellant- Sunita Agrawal, C/o, Agarwal Vishwanath & Associates, 133/1/1A, S. N. Banerjee Road, Pushkal Bhawan, 3rd Floor, Kolkata- 700013.
2. Respondent – NFAC, Delhi
3. Ld. Pr. CIT- , Patna
4. DR, Patna Bench, Patna

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Sr.Ps/Assistant Registrar
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2. It appears from the report of the registry that the appeal has been filed after a delay of 358 days for this the assessee has filed condonation petition. On perusal of the

condonation petition, the reason for delay in filing the appeal seems to be genuine and bonafide. The Ld. D.R did not raise any objection in condoning the delay. Keeping in view, the condonation petition as well as judicial pronouncement that the case should be decided on merit not on technical issue, the delay is hereby condoned.

3. Brief facts of the case of the assessee are that the assessee, Smt. Sunita Agarwal, is the wife of Shri Anil Agarwal, filed her return of income for AY 2015-16 on 02.02.2016 declared total income of Rs. 3,58,580/-. The case was reopened u/s.147 of the Act after recording reasons of reopening and after taking necessary approval as per the provision of Act. As per the reasons recorded the assessee had indulged in sale of bogus penny stocks of EML and GBFL and had received Rs. 1,34,97,115/- and claimed the gain of Rs. 1,32,80,076/- as exempt u/s 10(38) of the Act for A.Y.2015-16 Accordingly, a notice u/s.148 of the Act was issued on 31/03/2021 through ITBA and served through e-filing portal on registered e-mail id. In response to notice u/s 148 of the Act, the assessee filed return of income on 22/04/2021 after declaring total income of Rs.3,58,580/- for the AY 2015-16. Thereafter, the AO issued the statutory notices. In response to the said notice, the assessee filed letter dated 12/07/2021 filing objection for reopening. The AO replied to the objections raised by the assessee. During the assessment proceedings, vide a letter dated 12/07/2021 filed before the AO, the assessee has stated that he had sold the shares of Appu Marketing & Manufacturing Ltd (now known as Ejecta Marketing Limited). The purchase of these shares was made on 17/10/2013 at a price Rs.2,00,000/- and the same were sold at a total price of Rs.1,34,80,076/- on various dates in the month of February and March in the year 2015. Resultantly, there was a long term capital gain of Rs.1,32,80,076/- which is exempt u/s. 38 of the Income-tax Act, 1961. The reply of the assessee did not find favour with the AO. After discussing the modus operandi of money laundering by way of purchase and sale of penny stock, the AO has concluded that since there were bogus penny stocks of EML, therefore, exemption u/s 10(38) of the Act was not admissible. Accordingly, the AO treated the amount of Rs. 1,34,97,115/- as assessee's income u/s.68 of the Act for the A.Y 2015-16.

3. Aggrieved by the said assessment order, the assessee preferred an appeal before the Ld. CIT(A) wherein the appeal of the assessee has been dismissed.

Being aggrieved and dissatisfied the assessee preferred an appeal before us.

4. The Ld. A.R challenges the very impugned order thereby submitting that the notice issued u/s 148 was actually issued on 01.04.2021 instead of 31.03.2021, which is invalid in law. In support of his submission, he filed the screenshot of income tax portal. The Ld. A.R has also cited a decision of Co-ordinate Bench of Kolkata passed in the case of Md. Hakimuddin vs. ITO passed in ITA Nos. 1159 & 1160/Kol/2023 for AY 2014-15 and 2015-16 dated 24.06.2024.

5. Contrary to that the Ld. D.R supports the impugned order.

6. Upon hearing the submission of the counsel of the respective parties, we have perused the records and find that in the present case the assessee was served with a notice u/s 148 of the Act in which date has been depicted as **31.03.2021**, however, screen shot of the income tax portal reveals that it was issued on **1.4.2021**. In support of contention the said notice issued beyond statutory time limit, the AR has filed screen shot of the ITBA portal which is as follows:

The screenshot displays the 'View Notices' page for Sunita Agrawal. It lists several notices issued under Section 147 of the Income Tax Act, 1961. The first notice, with reference ID 100044906244, is highlighted in blue and shows an issue date of 03-Mar-2022. Other notices include ITBA/AST/F/17/2021-22/1039523245(1) issued on 08-Feb-2022, ITBA/AST/F/142(1)/2021-22/1039523205(1) issued on 08-Feb-2022, and ITBA/AST/F/143(2)_4/2021-22/1033873125(1) issued on 30-Jun-2021. The page also includes a search bar and navigation options.

Notice/Communication Reference ID	Description	Issued On	Response Due Date
100044906244	[ITBA]Show Cause Notice for Proceedings u/s 147 of Income Tax Act 1961.	03-Mar-2022	10-Mar-2022
100043741002	[ITBA]Issue Letter	08-Feb-2022	
100040818423	[ITBA]Notice u/s 142(1) of Income Tax Act 1961.	08-Feb-2022	14-Feb-2022
100036257714	[ITBA]Notice u/s 142(2) of Income Tax Act 1961.	30-Jun-2021	15-Jul-2021

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Deep Agarwal

Notice/ Communication Reference ID : 100033680280


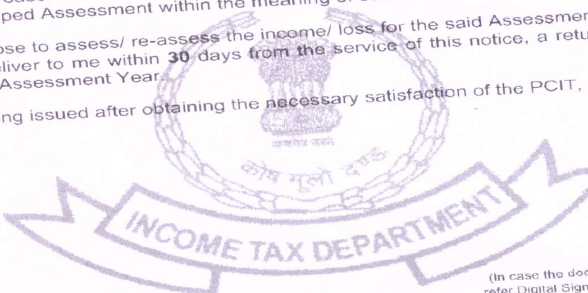
148 Notice u/s	ITBA/AST/S/148/2020-21/1032116785(1) Document reference ID	Description : [ITBA]Notice under section 148 of the Income Tax Act, 1961 Issued On 01-Apr-2021	View Response Notice/Letter Pdf
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Deep Agarwal

 GOVERNMENT OF INDIA MINISTRY OF FINANCE INCOME TAX DEPARTMENT OFFICE OF THE INCOME TAX OFFICER ITO WARD 1(1), MUZF.			
To,			
SUNITA AGRAWAL O W/O ANIL AGRAWAL , JAWAHARLAL ROAD MUZAFFARPUR 842001 , Bihar India			
PAN: AAMPA5420G	AY: 2015-16	Dated: 31/03/2021	DIN & Notice No : ITBA/AST/S/148/2020-21/1032116785(1)
Notice Under Section 148 Of The Income Tax Act, 1961			
Sir/ Madam/ M/s.			
Whereas I have reasons to believe that your Income chargeable to Tax for the Assessment Year 2015-16 has escaped Assessment within the meaning of section 147 of the Income Tax Act, 1961.			
I, therefore, propose to assess/ re-assess the income/ loss for the said Assessment Year and I hereby require you to deliver to me within 30 days from the service of this notice, a return in the prescribed form for the said Assessment Year.			
This notice is being issued after obtaining the necessary satisfaction of the PCIT, Patna-1			
 INCOME TAX DEPARTMENT			KAUSHAL KUMAR ITO WARD 1(1), MUZF.
<small>(In case the document is digitally signed please refer Digital Signature at the bottom of the page)</small>			

7. It is evident from the documents filed before us that the said notice u/s 148 of the Act was actually issued on 1.4.2021 and not on 31.03.2021. We have also gone through

the cited judgment of Co-ordinate Bench of Kolkata passed in the case of Md. Hakimuddin (supra), the Co-ordinate bench has discussed this issue after following the judgment of Co-ordinate Bench of Kolkata passed in the case of M/s Osian Stock Broking Pvt. Ltd. vs. ITO in ITA no. 375/Kol/2022 dated 12.05.2023. The operative part is reproduced herein below:

“2.4. We have carefully considered the rival contentions and also examined the documents placed before us, specially the screenshots from the ITBA Portal. It is seen that this case is squarely covered in favour of the assessee through the case of M/s. Osian Stock Broking Pvt. Ltd. (supra). The relevant portions from the said order are extracted as under:

“4. We have heard the rival contentions and gone through the records. The notice in this case has been shown to be signed on 30.09.2015, however, the same was emailed to the assessee on 03.11.2015. The Hon’ble Jurisdictional Calcutta High Court in the case of Marudhar Vintrade Pvt. Ltd. vs. Union of India & Ors.’ (supra) considering the facts that the notice u/s 148 of the Act was signed on March 31 2021, however, it was actually uploaded for communication on April 1 2021 at 3 a.m. thereby treating the 1st April 2021 as issuance of impugned notice u/s 148 of the Act, quashed the reassessment proceedings holding that the provisions of Finance Act 2021 would be applicable from 01.04.2021 and therefore, before issuance any notice u/s 148 of the Act, the Assessing Officer was required to observe the statutory formalities u/s 148A of the Act. In the case in hand also, the notice was set in motion only on 03.11.2015, in our humble view, signing of the notice would not constitute as issuance of notice. The date of issuance of notice would be when it is set in motion for delivery to the assessee. So far as the contention of the ld. counsel that the issue of notice u/s 143(2) of the Act within the prescribed period in relation to the reassessment proceedings u/s 147/148 was not mandatory, we find that the issue has been settled by the various High Courts holding that even in the case of reassessment proceedings u/s 147/148 of the Act, the issuance of notice within the specified period u/s 143(2) of the Act is mandatory and that the Assessing Officer cannot assume jurisdiction u/s 143(3) of the Act without issuance of notice u/s 143(2) of the Act and this defect cannot be cured by taking recourse to the deeming fiction provided u/s 292BB of the Act. Reliance in this respect can be placed on the decision of the Delhi High Court in the case of PCIT vs. Shree Jai Shiv Shankar Traders Pvt. Ltd. IT Appeal No.1068 of 2013 dated 18.02.2015; Hon’ble Madras High Court in the case of Saphagiri Finance & Investment vs. ITO reported in (2013) 90 DTR (Mad) 289; Hon’ble Delhi High Court in the case of DIT vs. Society for Worldwide Interbank Financial Telecommunications reported in (2010) 323 ITR 249 (Del); Hon’ble Allahabad High Court in the case of CIT vs. Solarpur Cold Storage P Ltd (2014) 50 Taxmann.com 105 (All); Hon’ble Allahabad High Court in the case of CIT vs. Rajeev Sharma reported in [2011] 336 ITR 678 (All.). Since the Assessing Officer did not issue notice u/s 143(2) of the Act within the specified time period, therefore, the Assessing Officer could not have assumed jurisdiction to frame the assessment u/s 143(3) of the Act and, therefore, the impugned assessment order is bad in law and the same is accordingly held to be non-est.”

8. In the light of discussion above the assessee succeeds on the ground that assumption of jurisdiction itself was faulty and subsequent findings also become void ab-initio.

In the result, the appeal filed by the assessee is allowed on this issue.

Order is pronounced in the open court on 22nd July, 2025

Sd/-

Sd/-

(Rajesh Kumar/राजेश कुमार)

(Pradip Kumar Choubey /प्रदीप कुमार चौबे)

Accountant Member/लेखा सदस्य

Judicial Member/न्यायिक सदस्य

Dated: 22nd July, 2025

SM, Sr. PS

Copy of the order forwarded to:

1. Appellant- Sunita Agrawal, C/o, Agarwal Vishwanath & Associates, 133/1/1A, S. N. Banerjee Road, Pushkal Bhawan, 3rd Floor, Kolkata- 700013.
2. Respondent – NFAC, Delhi
3. Ld. Pr. CIT- , Patna
4. DR, Patna Bench, Patna

True Copy

By Order

Sr.Ps/Assistant Registrar
ITAT, Patna Bench, Patna

**IN THE INCOME TAX APPELLATE TRIBUNAL "DB" BENCH: PATNA
VIRTUAL HEARING IN KOLKATA**

श्री राजेश कुमार, लेखा सटस्य एवं श्री प्रदीप कुमार चौबे, न्यायिक सदस्य के समक्ष
[Before Shri Rajesh Kumar, Accountant Member & Shri Pradip Kumar Choubey, Judicial Member]

**I.T.A. No. 148/PAT/2025
Assessment Year: 2015-16**

Sunita Agarwal (PAN: AAMPA 5420 G)	Vs.	NFAC, Delhi
Appellant / (अपीलार्थी)		Respondent / प्रत्यर्थी

Date of Hearing / सुनवाई की तिथि	07.07.2025
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	22.07.2025
For the assessee / निर्धारिता की ओर से	Shri Deep Agarwal, Advocate Shri Shubhankar Ghosh, Advocate
For the revenue / राजस्व की ओर से	Sh. Ashwani Kr. Singhal, JCIT

ORDER / आदेश

Per Pradip Kumar Choubey, JM:

This is the appeal preferred by the assessee against order of Commissioner of Income Tax (Appeals)-NFAC, Delhi (hereinafter referred to as the Ld. PCIT] dated 09.01.2024 for AY 2015-16.

2. It appears from the report of the registry that the appeal has been filed after a delay of 358 days for this the assessee has filed condonation petition. On perusal of the

condonation petition, the reason for delay in filing the appeal seems to be genuine and bonafide. The Ld. D.R did not raise any objection in condoning the delay. Keeping in view, the condonation petition as well as judicial pronouncement that the case should be decided on merit not on technical issue, the delay is hereby condoned.

3. Brief facts of the case of the assessee are that the assessee, Smt. Sunita Agarwal, is the wife of Shri Anil Agarwal, filed her return of income for AY 2015-16 on 02.02.2016 declared total income of Rs. 3,58,580/-. The case was reopened u/s.147 of the Act after recording reasons of reopening and after taking necessary approval as per the provision of Act. As per the reasons recorded the assessee had indulged in sale of bogus penny stocks of EML and GBFL and had received Rs. 1,34,97,115/- and claimed the gain of Rs. 1,32,80,076/- as exempt u/s 10(38) of the Act for A.Y.2015-16 Accordingly, a notice u/s.148 of the Act was issued on 31/03/2021 through ITBA and served through e-filing portal on registered e-mail id. In response to notice u/s 148 of the Act, the assessee filed return of income on 22/04/2021 after declaring total income of Rs.3,58,580/- for the AY 2015-16. Thereafter, the AO issued the statutory notices. In response to the said notice, the assessee filed letter dated 12/07/2021 filing objection for reopening. The AO replied to the objections raised by the assessee. During the assessment proceedings, vide a letter dated 12/07/2021 filed before the AO, the assessee has stated that he had sold the shares of Appu Marketing & Manufacturing Ltd (now known as Ejecta Marketing Limited). The purchase of these shares was made on 17/10/2013 at a price Rs.2,00,000/- and the same were sold at a total price of Rs.1,34,80,076/- on various dates in the month of February and March in the year 2015. Resultantly, there was a long term capital gain of Rs.1,32,80,076/- which is exempt u/s. 38 of the Income-tax Act, 1961. The reply of the assessee did not find favour with the AO. After discussing the modus operandi of money laundering by way of purchase and sale of penny stock, the AO has concluded that since there were bogus penny stocks of EML, therefore, exemption u/s 10(38) of the Act was not admissible. Accordingly, the AO treated the amount of Rs. 1,34,97,115/- as assessee's income u/s.68 of the Act for the A.Y 2015-16.

3. Aggrieved by the said assessment order, the assessee preferred an appeal before the Ld. CIT(A) wherein the appeal of the assessee has been dismissed.

Being aggrieved and dissatisfied the assessee preferred an appeal before us.

4. The Ld. A.R challenges the very impugned order thereby submitting that the notice issued u/s 148 was actually issued on 01.04.2021 instead of 31.03.2021, which is invalid in law. In support of his submission, he filed the screenshot of income tax portal. The Ld. A.R has also cited a decision of Co-ordinate Bench of Kolkata passed in the case of Md. Hakimuddin vs. ITO passed in ITA Nos. 1159 & 1160/Kol/2023 for AY 2014-15 and 2015-16 dated 24.06.2024.

5. Contrary to that the Ld. D.R supports the impugned order.

6. Upon hearing the submission of the counsel of the respective parties, we have perused the records and find that in the present case the assessee was served with a notice u/s 148 of the Act in which date has been depicted as **31.03.2021**, however, screen shot of the income tax portal reveals that it was issued on **1.4.2021**. In support of contention the said notice issued beyond statutory time limit, the AR has filed screen shot of the ITBA portal which is as follows:

The screenshot displays the 'View Notices' page for Sunita Agrawal. It lists several notices issued under Section 148 of the Income Tax Act, 1961. The notices are as follows:

Notice No.	Description	Issued On	Response Due Date
147	[ITBA]Show Cause Notice for Proceedings u/s 147 of Income Tax Act 1961.	03-Mar-2022	10-Mar-2022
142(1)	[ITBA]Notice u/s 142(1) of Income Tax Act 1961.	08-Feb-2022	14-Feb-2022
143(2)	[ITBA]Notice u/s 143(2) of Income Tax Act 1961.	14-Jul-2021	-

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Deep Agarwal

Notice/ Communication Reference ID : 100033680280


148 Notice u/s	ITBA/AST/S/148/2020-21/1032116785(1) Document reference ID	Description : [ITBA]Notice under section 148 of the Income Tax Act, 1961 Issued On 01-Apr-2021	View Response Notice/Letter Pdf
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 Deep Agarwal



GOVERNMENT OF INDIA
 MINISTRY OF FINANCE
 INCOME TAX DEPARTMENT
 OFFICE OF THE INCOME TAX OFFICER
 ITO WARD 1(1), MUZF.

To, SUNITA AGRAWAL O W/O ANIL AGRAWAL , JAWAHARLAL ROAD MUZAFFARPUR 842001 , Bihar India	
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PAN: AAMPA5420G	AY: 2015-16	Dated: 31/03/2021	DIN & Notice No : ITBA/AST/S/148/2020-21/1032116785(1)
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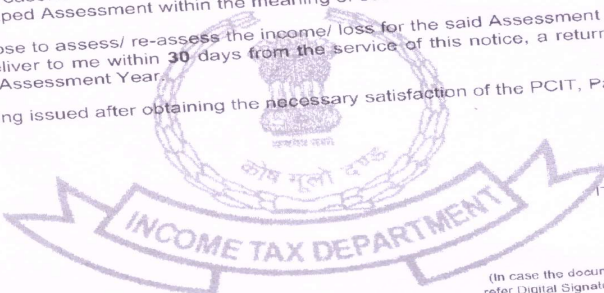
Notice Under Section 148 Of The Income Tax Act, 1961

Sir/ Madam/ M/s,

Whereas I have reasons to believe that your Income chargeable to Tax for the Assessment Year 2015-16 has escaped Assessment within the meaning of section 147 of the Income Tax Act, 1961.

I, therefore, propose to assess/ re-assess the income/ loss for the said Assessment Year and I hereby require you to deliver to me within 30 days from the service of this notice, a return in the prescribed form for the said Assessment Year.

This notice is being issued after obtaining the necessary satisfaction of the PCIT, Patna-1



KAUSHAL KUMAR
 ITO WARD 1(1), MUZF.

(In case the document is digitally signed please refer Digital Signature at the bottom of the page)

7. It is evident from the documents filed before us that the said notice u/s 148 of the Act was actually issued on 1.4.2021 and not on 31.03.2021. We have also gone through

the cited judgment of Co-ordinate Bench of Kolkata passed in the case of Md. Hakimuddin (supra), the Co-ordinate bench has discussed this issue after following the judgment of Co-ordinate Bench of Kolkata passed in the case of M/s Osian Stock Broking Pvt. Ltd. vs. ITO in ITA no. 375/Kol/2022 dated 12.05.2023. The operative part is reproduced herein below:

“2.4. We have carefully considered the rival contentions and also examined the documents placed before us, specially the screenshots from the ITBA Portal. It is seen that this case is squarely covered in favour of the assessee through the case of M/s. Osian Stock Broking Pvt. Ltd. (supra). The relevant portions from the said order are extracted as under:

“4. We have heard the rival contentions and gone through the records. The notice in this case has been shown to be signed on 30.09.2015, however, the same was emailed to the assessee on 03.11.2015. The Hon’ble Jurisdictional Calcutta High Court in the case of Marudhar Vintrade Pvt. Ltd. vs. Union of India & Ors.’ (supra) considering the facts that the notice u/s 148 of the Act was signed on March 31 2021, however, it was actually uploaded for communication on April 1 2021 at 3 a.m. thereby treating the 1st April 2021 as issuance of impugned notice u/s 148 of the Act, quashed the reassessment proceedings holding that the provisions of Finance Act 2021 would be applicable from 01.04.2021 and therefore, before issuance any notice u/s 148 of the Act, the Assessing Officer was required to observe the statutory formalities u/s 148A of the Act. In the case in hand also, the notice was set in motion only on 03.11.2015, in our humble view, signing of the notice would not constitute as issuance of notice. The date of issuance of notice would be when it is set in motion for delivery to the assessee. So far as the contention of the ld. counsel that the issue of notice u/s 143(2) of the Act within the prescribed period in relation to the reassessment proceedings u/s 147/148 was not mandatory, we find that the issue has been settled by the various High Courts holding that even in the case of reassessment proceedings u/s 147/148 of the Act, the issuance of notice within the specified period u/s 143(2) of the Act is mandatory and that the Assessing Officer cannot assume jurisdiction u/s 143(3) of the Act without issuance of notice u/s 143(2) of the Act and this defect cannot be cured by taking recourse to the deeming fiction provided u/s 292BB of the Act. Reliance in this respect can be placed on the decision of the Delhi High Court in the case of PCIT vs. Shree Jai Shiv Shankar Traders Pvt. Ltd. IT Appeal No.1068 of 2013 dated 18.02.2015; Hon’ble Madras High Court in the case of Sapthagiri Finance & Investment vs. ITO reported in (2013) 90 DTR (Mad) 289; Hon’ble Delhi High Court in the case of DIT vs. Society for Worldwide Interbank Financial Telecommunications reported in (2010) 323 ITR 249 (Del); Hon’ble Allahabad High Court in the case of CIT vs. Solarpur Cold Storage P Ltd (2014) 50 Taxmann.com 105 (All); Hon’ble Allahabad High Court in the case of CIT vs. Rajeev Sharma reported in [2011] 336 ITR 678 (All.). Since the Assessing Officer did not issue notice u/s 143(2) of the Act within the specified time period, therefore, the Assessing Officer could not have assumed jurisdiction to frame the assessment u/s 143(3) of the Act and, therefore, the impugned assessment order is bad in law and the same is accordingly held to be non-est.”

8. In the light of discussion above the assessee succeeds on the ground that assumption of jurisdiction itself was faulty and subsequent findings also become void ab-initio.

In the result, the appeal filed by the assessee is allowed on this issue.

Order is pronounced in the open court on 22nd July, 2025

Sd/-

Sd/-

(Rajesh Kumar/राजेश कुमार)

(Pradip Kumar Choubey /प्रदीप कुमार चौबे)

Accountant Member/लेखा सदस्य

Judicial Member/न्यायिक सदस्य

Dated: 22nd July, 2025

SM, Sr. PS

Copy of the order forwarded to:

1. Appellant- Sunita Agrawal, C/o, Agarwal Vishwanath & Associates, 133/1/1A, S. N. Banerjee Road, Pushkal Bhawan, 3rd Floor, Kolkata- 700013.
2. Respondent – NFAC, Delhi
3. Ld. Pr. CIT- , Patna
4. DR, Patna Bench, Patna

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By Order

Sr.Ps/Assistant Registrar
ITAT, Patna Bench, Patna

**IN THE INCOME TAX APPELLATE TRIBUNAL "DB" BENCH: PATNA
VIRTUAL HEARING IN KOLKATA**

श्री राजेश कुमार, लेखा सटस्य एवं श्री प्रदीप कुमार चौबे, न्यायिक सदस्य के समक्ष
[Before Shri Rajesh Kumar, Accountant Member & Shri Pradip Kumar Choubey, Judicial Member]

**I.T.A. No. 148/PAT/2025
Assessment Year: 2015-16**

Sunita Agarwal (PAN: AAMPA 5420 G)	Vs.	NFAC, Delhi
Appellant / (अपीलार्थी)		Respondent / प्रत्यर्थी

Date of Hearing / सुनवाई की तिथि	07.07.2025
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	22.07.2025
For the assessee / निर्धारिता की ओर से	Shri Deep Agarwal, Advocate Shri Shubhankar Ghosh, Advocate
For the revenue / राजस्व की ओर से	Sh. Ashwani Kr. Singhal, JCIT

ORDER / आदेश

Per Pradip Kumar Choubey, JM:

This is the appeal preferred by the assessee against order of Commissioner of Income Tax (Appeals)-NFAC, Delhi (hereinafter referred to as the Ld. PCIT] dated 09.01.2024 for AY 2015-16.

2. It appears from the report of the registry that the appeal has been filed after a delay of 358 days for this the assessee has filed condonation petition. On perusal of the

condonation petition, the reason for delay in filing the appeal seems to be genuine and bonafide. The Ld. D.R did not raise any objection in condoning the delay. Keeping in view, the condonation petition as well as judicial pronouncement that the case should be decided on merit not on technical issue, the delay is hereby condoned.

3. Brief facts of the case of the assessee are that the assessee, Smt. Sunita Agarwal, is the wife of Shri Anil Agarwal, filed her return of income for AY 2015-16 on 02.02.2016 declared total income of Rs. 3,58,580/-. The case was reopened u/s.147 of the Act after recording reasons of reopening and after taking necessary approval as per the provision of Act. As per the reasons recorded the assessee had indulged in sale of bogus penny stocks of EML and GBFL and had received Rs. 1,34,97,115/- and claimed the gain of Rs. 1,32,80,076/- as exempt u/s 10(38) of the Act for A.Y.2015-16 Accordingly, a notice u/s.148 of the Act was issued on 31/03/2021 through ITBA and served through e-filing portal on registered e-mail id. In response to notice u/s 148 of the Act, the assessee filed return of income on 22/04/2021 after declaring total income of Rs.3,58,580/- for the AY 2015-16. Thereafter, the AO issued the statutory notices. In response to the said notice, the assessee filed letter dated 12/07/2021 filing objection for reopening. The AO replied to the objections raised by the assessee. During the assessment proceedings, vide a letter dated 12/07/2021 filed before the AO, the assessee has stated that he had sold the shares of Appu Marketing & Manufacturing Ltd (now known as Ejecta Marketing Limited). The purchase of these shares was made on 17/10/2013 at a price Rs.2,00,000/- and the same were sold at a total price of Rs.1,34,80,076/- on various dates in the month of February and March in the year 2015. Resultantly, there was a long term capital gain of Rs.1,32,80,076/- which is exempt u/s. 38 of the Income-tax Act, 1961. The reply of the assessee did not find favour with the AO. After discussing the modus operandi of money laundering by way of purchase and sale of penny stock, the AO has concluded that since there were bogus penny stocks of EML, therefore, exemption u/s 10(38) of the Act was not admissible. Accordingly, the AO treated the amount of Rs. 1,34,97,115/- as assessee's income u/s.68 of the Act for the A.Y 2015-16.

3. Aggrieved by the said assessment order, the assessee preferred an appeal before the Ld. CIT(A) wherein the appeal of the assessee has been dismissed.

Being aggrieved and dissatisfied the assessee preferred an appeal before us.

4. The Ld. A.R challenges the very impugned order thereby submitting that the notice issued u/s 148 was actually issued on 01.04.2021 instead of 31.03.2021, which is invalid in law. In support of his submission, he filed the screenshot of income tax portal. The Ld. A.R has also cited a decision of Co-ordinate Bench of Kolkata passed in the case of Md. Hakimuddin vs. ITO passed in ITA Nos. 1159 & 1160/Kol/2023 for AY 2014-15 and 2015-16 dated 24.06.2024.

5. Contrary to that the Ld. D.R supports the impugned order.

6. Upon hearing the submission of the counsel of the respective parties, we have perused the records and find that in the present case the assessee was served with a notice u/s 148 of the Act in which date has been depicted as **31.03.2021**, however, screen shot of the income tax portal reveals that it was issued on **1.4.2021**. In support of contention the said notice issued beyond statutory time limit, the AR has filed screen shot of the ITBA portal which is as follows:

The screenshot displays the 'View Notices' page for Sunita Agrawal. It lists four notices with the following details:

Notice/Communication Reference ID	Description	Issued On	Response Due Date
100044906244 147 Notice u/s ITBA/AST/F/147(SCN)/2021-22/1040307153(1)	[ITBA]Show Cause Notice for Proceedings u/s 147 of Income Tax Act 1961.	03-Mar-2022	10-Mar-2022
100043741002 Notice u/s ITBA/AST/F/17/2021-22/1039523245(1)	[ITBA]Issue Letter	08-Feb-2022	-
100040818423 142(1) Notice u/s ITBA/AST/F/142(1)/2021-22/1039523205(1)	[ITBA]Notice u/s 142(1) of Income Tax Act 1961.	08-Feb-2022	14-Feb-2022
100036257714 143(2) Notice u/s ITBA/AST/F/143(2)_4/2021-22/1033873125(1)	[ITBA]Notice u/s 143(2) of Income Tax Act 1961.	30-Jun-2021	15-Jul-2021

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Notice/ Communication Reference ID : 100033680280


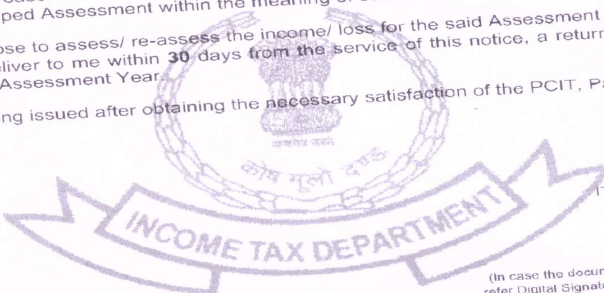
148 Notice u/s	ITBA/AST/S/148/2020-21/1032116785(1) Document reference ID	Description : [ITBA]Notice under section 148 of the Income Tax Act, 1961 Issued On 01-Apr-2021	View Response Notice/Letter Pdf
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 <p>GOVERNMENT OF INDIA MINISTRY OF FINANCE INCOME TAX DEPARTMENT OFFICE OF THE INCOME TAX OFFICER ITO WARD 1(1), MUZF.</p>			
To,			
SUNITA AGRAWAL O W/O ANIL AGRAWAL , JAWAHARLAL ROAD MUZAFFARPUR 842001 , Bihar India			
PAN: AAMPA5420G	AY: 2015-16	Dated: 31/03/2021	DIN & Notice No : ITBA/AST/S/148/2020-21/1032116785(1)
<p>Notice Under Section 148 Of The Income Tax Act, 1961</p>			
<p>Sir/ Madam/ M/s,</p> <p>Whereas I have reasons to believe that your Income chargeable to Tax for the Assessment Year 2015-16 has escaped Assessment within the meaning of section 147 of the Income Tax Act, 1961.</p> <p>I, therefore, propose to assess/ re-assess the income/ loss for the said Assessment Year and I hereby require you to deliver to me within 30 days from the service of this notice, a return in the prescribed form for the said Assessment Year.</p> <p>This notice is being issued after obtaining the necessary satisfaction of the PCIT, Patna-1</p>			
			<p>KAUSHAL KUMAR ITO WARD 1(1), MUZF.</p>
<p>(In case the document is digitally signed please refer Digital Signature at the bottom of the page)</p>			

7. It is evident from the documents filed before us that the said notice u/s 148 of the Act was actually issued on 1.4.2021 and not on 31.03.2021. We have also gone through

the cited judgment of Co-ordinate Bench of Kolkata passed in the case of Md. Hakimuddin (supra), the Co-ordinate bench has discussed this issue after following the judgment of Co-ordinate Bench of Kolkata passed in the case of M/s Osian Stock Broking Pvt. Ltd. vs. ITO in ITA no. 375/Kol/2022 dated 12.05.2023. The operative part is reproduced herein below:

“2.4. We have carefully considered the rival contentions and also examined the documents placed before us, specially the screenshots from the ITBA Portal. It is seen that this case is squarely covered in favour of the assessee through the case of M/s. Osian Stock Broking Pvt. Ltd. (supra). The relevant portions from the said order are extracted as under:

“4. We have heard the rival contentions and gone through the records. The notice in this case has been shown to be signed on 30.09.2015, however, the same was emailed to the assessee on 03.11.2015. The Hon’ble Jurisdictional Calcutta High Court in the case of Marudhar Vintrade Pvt. Ltd. vs. Union of India & Ors.’ (supra) considering the facts that the notice u/s 148 of the Act was signed on March 31 2021, however, it was actually uploaded for communication on April 1 2021 at 3 a.m. thereby treating the 1st April 2021 as issuance of impugned notice u/s 148 of the Act, quashed the reassessment proceedings holding that the provisions of Finance Act 2021 would be applicable from 01.04.2021 and therefore, before issuance any notice u/s 148 of the Act, the Assessing Officer was required to observe the statutory formalities u/s 148A of the Act. In the case in hand also, the notice was set in motion only on 03.11.2015, in our humble view, signing of the notice would not constitute as issuance of notice. The date of issuance of notice would be when it is set in motion for delivery to the assessee. So far as the contention of the ld. counsel that the issue of notice u/s 143(2) of the Act within the prescribed period in relation to the reassessment proceedings u/s 147/148 was not mandatory, we find that the issue has been settled by the various High Courts holding that even in the case of reassessment proceedings u/s 147/148 of the Act, the issuance of notice within the specified period u/s 143(2) of the Act is mandatory and that the Assessing Officer cannot assume jurisdiction u/s 143(3) of the Act without issuance of notice u/s 143(2) of the Act and this defect cannot be cured by taking recourse to the deeming fiction provided u/s 292BB of the Act. Reliance in this respect can be placed on the decision of the Delhi High Court in the case of PCIT vs. Shree Jai Shiv Shankar Traders Pvt. Ltd. IT Appeal No.1068 of 2013 dated 18.02.2015; Hon’ble Madras High Court in the case of Saphagiri Finance & Investment vs. ITO reported in (2013) 90 DTR (Mad) 289; Hon’ble Delhi High Court in the case of DIT vs. Society for Worldwide Interbank Financial Telecommunications reported in (2010) 323 ITR 249 (Del); Hon’ble Allahabad High Court in the case of CIT vs. Solarpur Cold Storage P Ltd (2014) 50 Taxmann.com 105 (All); Hon’ble Allahabad High Court in the case of CIT vs. Rajeev Sharma reported in [2011] 336 ITR 678 (All.). Since the Assessing Officer did not issue notice u/s 143(2) of the Act within the specified time period, therefore, the Assessing Officer could not have assumed jurisdiction to frame the assessment u/s 143(3) of the Act and, therefore, the impugned assessment order is bad in law and the same is accordingly held to be non-est.”

8. In the light of discussion above the assessee succeeds on the ground that assumption of jurisdiction itself was faulty and subsequent findings also become void ab-initio.

In the result, the appeal filed by the assessee is allowed on this issue.

Order is pronounced in the open court on 22nd July, 2025

Sd/-

Sd/-

(Rajesh Kumar/राजेश कुमार)

(Pradip Kumar Choubey /प्रदीप कुमार चौबे)

Accountant Member/लेखा सदस्य

Judicial Member/न्यायिक सदस्य

Dated: 22nd July, 2025

SM, Sr. PS

Copy of the order forwarded to:

1. Appellant- Sunita Agrawal, C/o, Agarwal Vishwanath & Associates, 133/1/1A, S. N. Banerjee Road, Pushkal Bhawan, 3rd Floor, Kolkata- 700013.
2. Respondent – NFAC, Delhi
3. Ld. Pr. CIT- , Patna
4. DR, Patna Bench, Patna

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By Order

Sr.Ps/Assistant Registrar
ITAT, Patna Bench, Patna