

**IN THE INCOME TAX APPELLATE TRIBUNAL
DEHRADUN “SMC & DB” BENCH: DEHRADUN**

**BEFORE SHRI YOGESH KUMAR U.S, JUDICIAL MEMBER &
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

[THROUGH VIRTUAL MODE]

ITA Nos.64, 78 & 79/DDN/2024

[Assessment Years : 2014-15, 2014-15 & 2015-16]

Akhilesh Singhal, 139, Chandreshwar Nagar, Rishikesh Uttarakhand-249201. PAN-BVLPS4429Q	vs	ITO, Ward-1(4)(1) Rishikesh Uttarakhand-249201
APPELLANT		RESPONDENT
Assessee by		Shri Kanwal K.Juneja, Adv.
Revenue by		Shri Amar Pal Singh, Sr.DR
Date of Hearing		04.08.2025
Date of Pronouncement		29.10.2025

ORDER

PER MANISH AGARWAL, AM :

The captioned appeals are filed by the assessee against the order, all dated 03.04.2024 by Ld. Commissioner of Income Tax (A), National Faceless Appeal Centre (“NFAC”), Delhi [“Ld.CIT(A)”]. For AY 2014-15 in ITA No. 64/DDN/2024, the order was passed by CIT(A), NFAC in Appeal No. NFAC/2013-14/10149588 passed u/s 250 of the Income Tax Act, 1961 [“the Act”] arising from the assessment order dated 31.03.2022 passed u/s 147 r.w.s. 144 r.w.s 144B of the Act and the remaining two appeals in ITA Nos. 78 & 79/DDN/2024 are filed by the assessee against penalty order, both dated 07.09.2022 passed u/s 271(1)(b) of the Act for Assessment Years 2014-15 & 2015-16 respectively.

2. As these three appeals are having the issues which are inter-linked, inter-connected and this fact has been admitted by both the parties during the course of hearing before us, therefore, all three appeals are decided by a common order.

ITA No.64/DDN/2024 [Assessment Year 2014-15]

3. First we take appeal of the assessee in **ITA No.64/DDN/2024** for the **Assessment Year 2014-15**.

4. Brief facts of the case are that assessee is an individual, e-filed his return of income on 05.08.2015, declaring total income of INR 22,00,000/-. The case of the assessee was re-opened by issue of notice u/s 148 on 29.03.2021 and assessment was completed u/s 147/144 dated 31.03.2022 wherein addition of INR 27,86,019/- was made on account of deposits in bank account as unexplained u/s 69A of the Act.

5. Against the said order, assessee filed an appeal before Ld. CIT(A) who vide order dated 03.04.2024, dismissed the appeal of the assessee.

6. Aggrieved by the order of Ld.CIT(A), assessee is in appeal before the Tribunal by taking following grounds of appeal:-

1. *“That in facts and circumstances of the case, re-opening of the assessment is non-jurisdictional and on borrowed information, AO has not recorded his independent satisfaction before taking the approval is arbitrary and bad at law.*

2. *That in facts and circumstances of the case, the higher authorities has failed to record their independent satisfaction and approval has been granted without application of mind and without going through the file and in hasty manner is unjustified and illegal.*
3. *That in facts and circumstances of the case, the AO has taken the credit side of the amount deposited in bank, as income of the assessee without consideration an amount which has been transferred from one account to another account has not been considered is erroneous and superfluous.*
4. *That in facts and circumstances of the case, that the AO only taken the credit side amount of deposit to the bank without considering an amount withdrawn. AO has failed to work the peak credit of the bank and workout correct credits of the bank which has not been calculated and taken into consideration is unwarranted and illegal.*
5. *That in facts and circumstances of the case, the CIT(A) has not consider the submission and evidence filed before him is unfair and uncalled.*
6. *That in facts and circumstances of the case, the CIT(A) relied upon the earlier year receipt which was low stating AO has not substantiated with sufficient reason for huge increase in sale without going through the submission and records is illogical and bad at law.*
7. *That in facts and circumstances of the case, and addition of Rs.27, 86,019/- may kindly be deleted.*
8. *That in facts and circumstances of the case, the charging of interest u/s 234A & 234B Rs.9, 29,664/- without recording the reason or direction is unlawful and uncalled for.*
9. *The appellant craves leave to add, amend, modify, delete and or change all or any of the Grounds of Appeal on or before the date of hearing.”*

7. During the course of hearing vide letter dated 31.07.2025, the assessee has filed an application for admission of additional ground of appeal. The additional ground raised by the assessee reads as under:-

“That under the facts and circumstances of the case, the AO has failed to serve the mandatory notice u/s 148 upon the assessee which makes the entire proceedings void-ab-initio.”

8. The assessee placed reliance on the judgement of Hon'ble Supreme Court in the case of ***NTPC Ltd. vs CIT [1998] 229 ITR 338 (SC)*** and ***CIT vs Sinhgad Technical Education society [2017] 397 ITR 344 (SC)*** and requested for the admission of the same.

9. After considering the submissions of the assessee and looking to the fact that additional ground of appeal taken by the assessee is purely legal in nature and goes to the root of the matter and requires no fresh investigation. Therefore, in the interest of justice, and further by following the judgements of Hon'ble Supreme court as relied upon by the assessee, the same is hereby admitted for adjudication.

10. First, we decide the additional ground taken by the assessee wherein assessee has challenged the re-assessment proceedings by alleging that the notice issued u/s 148 of the Act was not served upon the assessee thus, the entire re-assessment proceedings are void ab initio.

11. Before us, Ld.AR for the assessee submits that in the case of the assessee, notice u/s 148 was issued on 29.03.2021. Ld.AR submits that said notice was served on the address stated therein i.e. 139, Chandreshwar Nagar, Rishikesh Uttarakhand-249201 [copy of which is placed at page 26 of the Paper Book filed by the assessee]. Ld.AR submits that the assessee has shifted from the

aforsaid address and was regularly filing his return of income since 2017-18 from the new address i.e. “Gali No.25, Amit Gram, Gumaniwala, Rishikesh, Uttarakhand” and in support filed the copies of acknowledgement of the ITR filed since 2017-18. Ld.AR submits that AO has sent the notice issued u/s 148 of the Act at the old address though the new address was available with the AO since the assessee was filing his return of income from New address since 2017-18 i.e. much prior to the date of issue of notice u/s 148 of the Act. Ld. AR further submits the copy of latest return filed for AY 2019-20 wherein new address was mentioned and further drew our attention to the fact that notice u/s 148 was sent through e-mail on incorrect id i.e. pandeymahesh600@gmail.com though the correct mail id was mentioned in the returns of income filed. It is thus submitted that even otherwise, the notice claimed to have been issued u/s 148 through e-mail was sent at the wrong mail id and therefore, neither the notice u/s 148 was served upon the assessee nor further notices issued u/s 142(1) during the assessment proceedings reached to the assessee. In this regard, attention of the Bench is invited to the letter issued by AO dated 11.04.2025 wherein it is stated that all the notices were sent to the e-mail ID i.e. pandeymahesh600@gmail.com which is incorrect e-mail ID and also the physical notices were sent at the old address i.e. 139, Chandreshwar Nagar, Rishikesh Uttarakhand-249201. He thus, submits that since the notice u/s 148 was never served upon the assessee which is the mandatory requirement of the Act therefore, consequent order passed u/s 148 deserves to be hold bad in law. For this, reliance is placed on the judgement of Hon’ble Jurisdictional High Court in the case of **Suman Jeet Agarwal vs**

ITO [2022] 143 taxmann.com 11 (Delhi) and of the Co-ordinate Bench of Delhi Tribunal in the case of ***Nitin Jain vs ACIT in ITA No.1775/Del/2024 order dated 07.03.2025.***

12. On the other hand, Ld. Sr.DR for the Revenue vehemently supported the orders of the lower authorities and submits that notice u/s 148 was sent on the e-mail ID of the assessee and therefore the claim of the assessee that it was seen that incorrect address is not tenable and he submits that notice issued u/s 148 are correct and consequent order passed held as valid order.

13. Heard the contentions of both parties and perused the material available on record. The AO issued a letter stating the address and mail Id at which the notice u/s 148 issued was sent to the assessee, as available in the Paper Book at Page 21 reads as under:-

F.No. ITO/W-1(4)(1)/RKS/Misc/2025-26/ 26/3

OFFICE OF THE
INCOME TAX OFFICER
WARD-1(4)(1), RISHIKESH

Dated: 11.04.2025

To,

Akhilesh Singhal (BYLPS4429Q)
Gali No.25, Amit Gram,
Post Gumaniwala, Rishikesh, 249204

Sir,


Sub:- confirmation of the following documents related to A.Y.-2014-15-Reg

Please refer to your letter dated 08.04.2025 vide which the below mentioned information/documents were required. In respect of the same, the following information/documents are supplied to you for A.Y. 2014-15.

The following notices were sent in which address notice u/s 148, u/s 142(1) and u/s 221(1)	All notices were served at his registered address on e-filing portal- "139, Chandreshwar Nagar, Rishikesh, 249201, Uttarakhand, India", as well as his registered address-"Pandey mahesh600@gmail.com". ✓
Kindly let the assessee know as to whether copy of reason was supplied to the assessee and when	Copy of the reasons were not supplied with notice u/s 148 for A.Y. 2014-15 as the assessee has not furnished ITR u/s 148 of the Income Tax Act, 1961 .
Kindly supply of the copy of approval taken from the higher authorities in form 151 for reopening of case	The same are being attached with this letter.

Encl: As above

Yours faithfully


(S. R. Chauhan)
Income-Tax Officer
Ward-1(4)(1), Rishikesh

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14. From the perusal of the above, it is seen that AO has admitted that all the notices including notice u/s 148 were sent at the address i.e.139, Chandreshwar Nagar, Rishikesh, Uttarakhand-249201 and at the e-mail ID pandeymahesh600@gmail.com. From

the perusal of ITR filed for AYs 2019-20, 2020-21 & 2021-22, we find that in all these ITRs, assessee has stated the address as “Gali No.25, Amit Gram, Gumaniwala, Rishikesh, Uttarakhand” and further the mail id of the assessee was mentioned as pandeymahesh982@gmail.com. Sub-section (1) of section 148 of the Act as existed at the relevant point of time provides that AO shall serve the notice issued u/s 148 to the assessee.

15. Since as per section 148(1), it is mandatory that notice u/s 148 should be served on the assessee. As observed above, in the instant case, the AO despite of having information of the correct address and correct email id had served the notice u/s 148 as well as subsequent notices on the incorrect address and further the email ID which notice is stated to have been sent, were on incorrect e-mail ID. Therefore, the assessee has been able to establish that notice issued u/s 148 was sent on the incorrect address and incorrect mail id and thus was never served upon the assessee.

16. Under identical circumstances, the Co-ordinate Bench of ITAT in the case Nitin Jain (supra) by following order of Hon'ble Jurisdictional High Court in the case of Suman Jeet Agarwal (supra) held that notice issued u/s 148 on the incorrect e-mail ID cannot be treated as valid service of the said notice and therefore, consequent order is nonest. The relevant observations of the Bench as contained in para 6 & 7 are as under:-

6. *“The assessee has inter-alia challenged the validity and maintainability of impugned assessment order itself on the ground that the re-assessment order has been framed without valid service of notice*

purportedly issued under s. 148 of the Act. The assessee contends that service of notice under s. 148 of the Act is a mandatory requirement for continuation of re-assessment proceedings and culmination thereof in re-assessment order. The assessee with reference to the papers placed in the Paper Book as demonstrated before the Tribunal that notice issued under s. 148 dated 30.03.2021 was never communicated to the assessee in the correct e-mail ID of the Department. The notice has been sent to some other e-mail ID which has no relation with the assessee. The fact of service of notice at the wrong e-mail ID has been demonstrated to be supported by the screenshot of e-filing portal and ITBA system portal and further reinforced by the copy provided by the Department in response to RTI application. These evidences clearly show that notice under s. 148 cannot be deemed to have been validly served on the assessee. Noticeably the e-mail ID of the assessee is a part of the record of the Department as evident from the screenshot which is the communication of processing intimation under s.143(1) sent at the correct e-mail address as demonstrated in the submissions of the assessee recorded in the preceding paras. The assessee also claims that no communication of notice has been made to the assessee either physically or through post or other modes of communication adopted by the Department. The electronic communication appears to be made but delivered at the wrong e-mail ID.

7. We may usefully refer to the judgement of the Hon'ble Delhi High Court rendered in the case of Suman Jeet Agarwal (supra) wherein the Hon'ble Delhi High Court held that when the notices were sent to unrelated e-mail address, the date on which such notice was first viewed by the assessee on e-filing portal should be construed as the date of issuance of notice. There is no rebuttal on facts from the Revenue that notice was served on the correct e-mail ID or communicated physically or through the modes prescribed under s. 282 of the Act."

17. In view of above facts and circumstances of the case and keeping in mind that AO himself has stated the address at which the notice u/s 148 was sent, which incidentally was the incorrect address and e-mail ID, thus we hold that notice u/s 148 was not served upon the assessee and therefore, consequent re-assessment proceedings and re-assessment order are nonest and thus, the same is hereby, quashed.

18. Since we have already allowed the additional ground of appeal and quashed the assessment order passed u/s 148 of the Act. The other grounds of appeal raised by the assessee are taken on merits became academic.

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

ITA No.78/DDN/2024 [AY 2014-15]

20. In this appeal, the assessee has challenged the penalty order u/s 271(1)(b) of INR 40,000/- for non-compliance of statutory notices sent by the AO to the assessee.

21. Heard the contentions of both parties and perused the material available on record. In the instant case, while deciding the appeal of the assessee in ITA No.64/DDN/2024 for AY 2014-15, we have already hold that notice issued u/s 148 of the Act and also all the subsequent notices issued u/s 142(1) by the AO were sent to the incorrect address and at incorrect mail id and therefore, were never reached to the assessee. Thus, the assessee could not make any compliances in this regard. Accordingly, we quashed the re-assessment order passed by the AO under which the assessee has initiated the present penalty proceedings u/s 142(1) of the Act.

22. Since in the instant appeal, penalty is levied u/s 271(1)(b) for non-compliance of statutory notices which were never served upon the assessee therefore, compliance of such notices sent by the AO to the assessee was an impossible task.

23. In view of these facts, we hereby delete the penalty levied u/s 271(1)(b) to the assessee.

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

ITA No.79/DDN/2024 [AY 2015-16]

25. The assessee has challenged the levy of penalty u/s 271(1)(b) of the Act of INR 40,000/- for non-compliance of statutory notices.

26. From the perusal of the notice issued, it is seen that this notices were issued at the old address of the assessee i.e. 139, Chandreshwar Nagar, Rishikesh, Uttarakhand-249201 whereas the assessee has shifted his address to “Gali No.25, Amit Gram, Gumaniwala, Rishikesh, Uttarakhand” and was filing his returns of income regularly from the new address. Therefore, all notices stated to have been issued on incorrect address and incorrect mail id remained uncomplied with on the part of the assessee. It is further seen that Co-ordinate Bench of the Delhi Tribunal while deciding the appeal of the assessee for impugned year has set aside the reassessment order to the file of AO for fresh consideration and while setting aside the appeal, bench has observed that due to new Faceless System there are possibilities that some gap communication remained between the taxpayer and the Revenue.

27. Under these circumstances, in our considered opinion, when no notices were served upon the assessee, it is not possible for him

to make compliances to the same. Accordingly, we direct the AO to delete the penalty so levied u/s 271(1)(b) of the Act.

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

29. In the final result, all three captioned appeals in **ITA No. 64/DDN/2024** [AY 2014-15], **ITA No.78/DDN/2024** [AY 2014-15] and **ITA No.79/DDN/2024** [AY 2015-16] filed by the assessee are allowed.

Order pronounced in the open Court on 29.10.2025.

Sd/-

(YOGESH KUMAR U.S)
JUDICIAL MEMBER

Date:-29.10.2025

Amit Kumar, Sr.P.S

Copy forwarded to:

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

Sd/-

(MANISH AGARWAL)
ACCOUNTANT MEMBER

ASSISTANT REGISTRAR
ITAT