

IN THE INCOME TAX APPELLATE TRIBUNAL  
AMRITSAR BENCH (PHYSICAL), AMRITSAR

BEFORE DR. MITHA LALMEENA, HON'BLE ACCOUNTANT MEMBER  
AND SHRI UDAYAN DAS GUPTA, HON'BLE JUDICIAL MEMBER

ITA No. 118/ASR/2025  
(Assessment Year 2011-12)

Shailender Vaid, House No. 179-P, Sector-3, Trikuta Nagar, Jammu (J & K) PAN No. AAWPV6431C	Vs.	Deputy Commissioner of Income- tax, Circle-1, Jammu (J&K)
Assessee by		Shri Joginder Singh, CA
Revenue by		Shri Charan Dass, Sr. DR
Date of Hearing		24.09.2025.
Date of Pronouncement		10.11.2025.

ORDER

DR. MITHA LAL MEENA, A.M.:

This appeal is preferred by the assessee against the order passed by Id. Commissioner of Income Tax (Appeal), NFAC, Delhi (In short the 'CIT Appeal') dated 16.12.2024 which has emanated from the order of the NFAC, Delhi u/s 144 r.w.s. 147 of the Income Tax Act, 1961 (hereinafter referred to as the "Act") dated 10.12.2018 passed by Assistant Commissioner of Income Tax, Circle-1, Jammu (hereinafter referred to as the "AO") for the A.Y. 2011-122.

2. The assessee has raised following grounds:

1. That on the facts and circumstances of the case and law, the Ld. CIT(A), NFAC, Delhi is not justified in sustaining the action of the Ld. AO in initiating proceedings u/s 147 read with section 148 and the Ld. CIT(A) over looked the fact that the Ld. DCIT, Circle 1,

*Jammu had no jurisdiction to frame the assessment. Hence the assessment had been framed without any jurisdiction of the AD and deserves to be quashed.*

*2. That on the facts and circumstances of the case, the Ld. CIT(A) has erred in dismissing the appeal of the assessee on the ground that the assessee is not interested in pursuing the appeal.*

*3. That on the facts and in the circumstances of the case, the Ld. CITA) was not justified in dismissing the appeal without appreciating the fact that no valid notice u/s 148 of the Income tax Act, 1961 was issued by the Ld. AO having jurisdiction over the case.*

*4. The appellant craves leave to add, amend, alter or otherwise raise any other ground of appeal*

3. The appellant has raised the following additional ground of appeal:

“On the facts and circumstances of the case and in law the assessment order made u/s 144 r.w.s. 147 of the Act is illegal and void ab initio and thus liable to be quashed on the ground that the assessment made by the Ld. ACIT, Circle-I, Jammu and confirmed by the Ld. CIT(A) are without jurisdiction since the reason to believe that the assessee's income has escaped assessment and notice u/s 148 were recorded by the ITO, Ward1(3), Jammu who admittedly did not exercise jurisdiction over the matter, therefore, said reasons are ab initio null and void and all the proceedings in furtherance thereof, culminating in the impugned order are void ab initio.”

4. In the additional ground of appeal, the assessee has raised legal issue challenges jurisdiction over the matter which goes to the root of the matter with the support of National Thermal Power Co. Limited v/s CIT- 229 ITR 383 and the decision of the Delhi High Court in the case of DCM Benetton India Ltd. v/s CIT- 173 Taxman-283. The Ld. DR has raised objection to the additional legal ground, but admittedly this legal issue is also raised in the Ground No. 1 and 3 in the main grounds of appeal as per Form No.36. Further, the Ld. DR objection was regarding territorial jurisdiction u/s 124 of the Act which was not the case of the

assessee. Following the National Thermal Power Co. Limited v/s CIT (Supra), we admit, the purely legal issue raised by way of additional ground on the same facts already available on record, by the appellant.

5. After hearing both the sides and perusal of the material on record we find that the assessment was completed u/s 144 r.w.s. 147 of the Income tax Act, 1961 vide order dated 10.12.2018 with an addition of Rs.27,31,299/- u/s 68 of the Act exparte qua the assessee. The assessee filed the appeal before the Ld. CIT(A), NFAC, Delhi who has dismissed the appeal of the assessee in ex-parte manner holding that the assessee is not interested in pursuing the appeal.

6. The ITO, Ward-1(3), Jammu initiated proceedings u/s 148 of the act, based on third party information that cash deposits to the tune of Rs.27,31,299/- have been made in the saving bank account maintained by the assessee (Page No.26 PB). Accordingly, notice u/s 148 dated 21.03.2018 was issued by the Ld. ITO, Ward-1(3), Jammu. Thereafter notices u/s 142(1) dated 02.07.2018, 18.07.2018, 15.10.2018, 30.10.2018 and show cause notice dated 30.10.2018 were issued by the Ld. ITO, Ward-1(3), Jammu (Page No.27 to 40 PB). Thereafter, the Ld. ITO, Ward 1(3), Jammu transferred the case record to ACIT, Circle-1, Jammu on the pretext that jurisdiction lies with her. The ACIT, Circle-1, Jammu issued notice u/s 143(2) and the show cause notice dated 30.11.2018 (Page No.41 to 43 PB) and thus, the assessment order dated 10.12.2018 was passed by the Ld. ACIT, Circle-

1, Jammu u/s 144 r.w.s. 147 of the Income tax Act, 1961. As per the said order, the income was assessed at Rs.73,53,130/- after making an addition of Rs.27,31,299/- u/s 68 as against the returned of Rs.46,21,830/-.

7. That the assessee has declared income of Rs.46,21,830/- in the e-filed return of income u/s 139(1) of the act. It is apparently clear from the Instruction No.1/2011 dated 31/01/2011 issued by the CBDT under F.No.187/12/2010-IT(A-1) dated 31.01.2011 that the non- corporate returns filed in mofussil areas having declared income above Rs. 15 lakhs would be assessed by the ACIT's/ DCIT's (APB, Pg.3).

8. The Ld. DR questioned the territorial jurisdiction but in the present case, the issue was no of the territorial jurisdiction but of the AO's functioning within the same territory but acted in violation of the jurisdiction defined by the CBDT vide Instruction No.1/2011 dated 31/01/2011 under F.No.187/12/2010-IT(A-1) dated 31.01.2011. However, he failed to controvert the contention of the Ld. AR and file contrary judgement to distinguish.

9. Admittedly in the present case, the reasons for reopening have been recorded by the ITO Ward 1(3), Jammu and that notice under section 148 is also issued by the ITO, Ward 1(3), Jammu to initiate the re-assessment proceedings besides notices u/s 142(1) and show cause from time to time to the assessee. However, in view of jurisdiction as per the aforesaid CBDT instruction,

subsequently the assessment records were transferred to the ACIT, Circle-1, Jammu who had valid jurisdiction. On receipt of the assessment records, she issued notice u/s 143(2) and show cause notice and completed the assessment u/s 144 r.w.s. section 147 of the Income tax Act, 1961. As per the mandate, it is the jurisdictional Ld. AO who is the competent authority to record the reasons and issues a notice u/s 148 and to frame assessment u/s 144/ 147 of the Act. We draw support from the following decisions: -

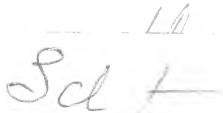
	Smt. Pramjit Kaur v/s Income tax Officer- (2021) 35 NYPTTJ 936 (Asr);	Page No.67 to 70 of PB
ii.	Gaurav Joshi v/s ITO (2019) 197 TTJ (Asr) 946;	Page No.71 to 75 of PB
iii.	Jawahar Lai Agarwal v/s ITO (2017) 190 TTJ (Agra) 870	Page No.76 to 80 of PB
	Dr. (Mrs.) K.B.Kumar v/s ITO (2010) 131 TTJ (Del) 511	Page No.81 to 84 of PB
v.	Manjit Manjit Singh v/s Dy. CIT (International Taxation)(2020) 207 TTJ (Chd) 1041	Page No.85 to 90 of PB
vi.	Ragbir Singh, Phagwara v/s ITO ITA No.599/Asr/2017	Page No.91 to 97 of PB

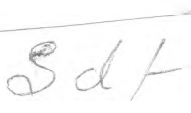
9. In our view, the order passed by the ACIT, Circle-1, Jammu is without assumption of jurisdiction by AO in the absence of recording reasons and issuing notice u/s 148 of the act, by the ACIT, Circle-1, Jammu. Accordingly, we hold that the assessment completed by the ACIT, Circle-1, Jammu is bad in law, and it is held to be null and void. Thus, the assessment passed u/s u/s 144 r.w.s. section 147 of the Income tax Act, 1961 is as such quashed.

10. Even on the merits of the case, we find that the bank account in which the alleged cash has been deposited is duly reflected in the financial statements uploaded while e-filing the Income tax return u/s 139(1) for the Assessment year 2010-11 and 2011-12 and that the books of account of the assessee have been duly audited u/s 44AB of the Income tax Act, 1961 and the auditor has duly verified the transactions reflected in the said bank account. The copies of the financial statements for the F.Y. 2009-10 and 2010-11 along with audit report and other schedules are filed on record (APB, Pgs. No.04 to 25 and 44 to 62) along with the copy of the Bank statement (APB, page No.63 to 66). Thus, the cash the source of cash deposit of Rs. addition of Rs.27,31,299/- in the assessee's bank account stands explained. Accordingly, we delete the addition of Rs.27,31,299/- made u/s 68 of the act.

11. In the result the captioned appeal of the assessee is allowed. for statistical purposes.

Order pronounced on 10/11/2025 under Rules 34(4) of  
Income Tax (Appellate Tribunal) Rules, 1963.

  
(UDAYAN DĀS GUPTA)  
JUDICIAL MEMBER

  
(DR. MITHA LAL MEENA)  
ACCOUNTANT MEMBER

Dated : 10/11/2025