

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'G' BENCH,
NEW DELHI

BEFORE SHRI ANUBHAV SHARMA, JUDICIAL MEMBER, AND
SHRI NAVEEN CHANDRA, ACCOUNTANT MEMBER

ITA No. 5844/DEL/2024 [A.Y 2015-16]

SGA Infotech Pvt Ltd
29, DDA Site-
New Rajinder Nagar
Delhi

Vs.

The A.C.I.T.
Circle -22(2)
New Delhi

PAN: AAMCS 0636 D

(Appellant)

(Respondent)

Assessee By : Shri Aseem Chawla, Sr. Adv
Shri Jasmeet Singh, Adv
Shri Saif Ali, Adv
Ms. Pratishtha Chaudhary, Adv
Ms. Kavya Garg, Adv

Department By : Shri Sushil Kumar Kulheri, Sr. DR

Date of Hearing : 30.09.2025
Date of Pronouncement : 21.11.2025

PER NAVEEN CHANDRA, AM :-

This appeal by the assessee is directed against the order of the NFAC, Delhi dated 21.01.2025 pertaining to A.Y 2014-15.

2. At the very outset, the ld. counsel for the assessee relied upon his submissions as raised in the grounds of appeal which read as under:

"1. That the order passed by the Ld. CIT (A) sustaining the addition of Rs. 90,00,000/- is bad in law.

2. That the Ld. AO did not comply with the requirements of Section 148A of Income Tax Act, 1961. After insertion of Section 148A from 1.4.2021 before issue of notice u/s 148 for re-opening of the case AO is required to provide an opportunity to the appellant to explain his case. Further no enquiry as per Section 148A has been conducted regarding the information. which suggests that any income escapement has been made. Thus, the notice issued u/s 148 in the instant matter is bad in law.

3. That the Ld. AO did not apply his mind while recording reasons to believe and issuing notice u/s 148. He mechanically relied on the report of investigation wing without conducting any independent enquiry that means belief formed is based on borrowed satisfaction and not his own satisfaction. Therefore, the notice issued u/s 148 is not valid.

4. That the appellant has already disclosed fully and truly all material facts in its Return of Income and no new tangible or fresh material has come to the knowledge of the Ld. AO at the time of recording of reasons to believe for issue of notice u/s 148 of the Income Tax Act, 1961 for reassessment for the assessment year 2015-16. Therefore, re-opening of assessment without any new tangible or fresh material is bad in law.

5. That the order u/s 147 was passed by the Ld. AO without disposing off the objection raised by the Appellant, in violation to procedure laid down by the Hon'ble Supreme Court in the case of

GKN Driveshaft Ltd. Therefore, the order passed u/s 147 is bad in law.

6. That the re-opening of the assessment was on the basis of statement recorded by the Income Tax authorities of some other person, which is against the principles of natural justice as the appellant was not even furnished the statement, which was required to be explained by the appellant before the Id. AO, The Ld. AO did not provide any opportunity to the appellant to confront the statement relied upon by him while making the alleged addition of Rs. 90,00,000/- as unexplained cash credit u/s 68 of the Income Tax Act."

3. The facts emanating from the assessment order are that the assessee filed its return of income at loss of (-) Rs. 1,23,341/- on 16.09.2015 for A.Y under consideration and the case was not assessed under scrutiny. The case was reopened u/s 147 r.w.s 148 of the Income-tax Act, 1961 [the Act, for short] after recording reasons for reopening and due approval from the competent authority. Notice u/s 148 of the I T Act was issued to the assessee company on 31.03.2021 through ITBA and registered email id.

4. It is the say of the ld. counsel for the assessee that the reassessment proceedings in pursuance of issue of notice issued u/s 148 of the Act is bad in law. The ld. counsel for the assessee submitted that as the notice u/s 148 of the Act was issued on 01.04.2021, process of

law to be adopted by the Assessing Officer should be the amended law by Finance Act 2021 which came into effect on 01.04.2021 in relation to section 148 of the Act, which was not followed.

5. The ld. counsel for the assessee continued by saying that as per the amended section 148 of the Act, the Assessing Officer has to follow number of processes to initiate reassessment proceedings commencing with the issue of notice u/s 148 of the Act. However, the Assessing Officer has followed the law prevailing in the statute before 01.04.2021 consequence thereof, order u/s 143(3)/147 dated 29.03.2022 cannot be held as valid and permissible in law. The ld. counsel for the assessee relied upon the decision of the Hon'ble Jurisdictional High Court of Delhi in the case of *SumanJeet Agarwal Suman Jeet Agarwal v. ITO* (2022) 449 ITR 517(Del) and ITAT decision in case of *Aseem Sehgal* ITA 154-156/Del/2025 dated 30.07.2025.

6. Per contra, the ld. DR relied upon the orders of the Assessing Officer and submitted that provisions of section 292BB apply in the case of defects in the notice.

7. We have heard the rival submissions and have perused the relevant material on record. We find that notice u/s 148 available at page 98 of the paper book is digitally signed by the Assessing Officer on 31.03.2021. However, page 99 of the Paper book, shows that the ITBA portal reflects

the notice has been issued on 01.04.2021. The ld DR could not controvert or place any evidence or documents to demonstrate that the notice u/s 148 was issued too on 31.03.2021 i.e., the same date as it was digitally signed. Since the requirement in law u/s 148 of the Act is to “issue notice”, date of uploading the same in the e-filing portal of the assessee as recorded in the Income Tax Business Application portal, in the instant case, is determined as 01.04.2021. Since the date of issue of notice u/s 148 is 01.04.2021, the notice u/s 148 is construed as issued under section 148A(b) of the Act under the provisions of section 148 and 148A as inserted by the Finance Act, 2021 w.e.f 01.04.2021, as held by the hon’ble Supreme Court in *Ashish Agarwal* 138 taxmann.com 64(SC). Accordingly, the Assessing Officer has to necessarily follow process laid down in the amended provisions u/s 148 and 148A of the Act. The amended provisions of section 148 and 148A mandates conducting of enquiry if required u/s 148A(a) of the Act and providing an opportunity of being heard to the assessee u/s 148A(b) of the Act and passing an order u/s 148A(d) of the Act after taking due approval from specified authority before issuing notice u/s 148 of the Act.

8. We find that the due process under amended law in section 148 and 148A w.e.f. 01.04.2021 have not been followed. In the instant case, the assessing officer has conducted the reassessment proceedings under

the old provisions of law u/s 148. In such a factual matrix, the re-assessment u/s 147 of the Act cannot be held as legally valid. We are therefore of the considered view that the reassessment order dated 29.03.2022 is liable to be quashed as bad in law and void ab initio. We order accordingly. The ground 1 of assessee is allowed.

9. As the reassessment has been held as invalid, the other legal grounds and ground on merit is not adjudicated.

10. In the result, appeal of assessee in ITA No. 5844/DEL/2024 is allowed.

Order pronounced in open court on 21.11.2025.

Sd/-

[ANUBHAV SHARMA]
JUDICIAL MEMBER

Sd/-

[NAVEEN CHANDRA]
ACCOUNTANT MEMBER

Dated: 21st November, 2025.

VL/

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,
ITAT, New Delhi

SI No.	PARTICULARS	DATES
1.	<i>Date of dictation of Tribunal Order</i>	
2.	<i>Date on which the typed draft order is placed before the Dictating Member</i>	
3.	<i>Date on which the typed draft order is placed before the other Member [in case of DB]</i>	
4.	<i>Date on which the approved draft order comes to the Sr. P.S./P.S.</i>	
5.	<i>Date on which the fair Order is placed before the Dictating Member for sign</i>	
6.	<i>Date on which the fair order is placed before the other Member for sign [in case of DB]</i>	
7.	<i>Date on which the Order comes back to the Sr. P.S./P.S for uploading on ITAT website</i>	
8.	<i>Date of uploading, inf not, reason for not uploading</i>	
9.	<i>Date on which the file goes to the Bench Clerk</i>	
10.	<i>Date on which the file goes for Xerox</i>	
11.	<i>Date on which the file goes for endorsement</i>	
12.	<i>The date on which the file goes to the Superintendent for checking</i>	
13.	<i>Date on which the file goes to the Assistant Registrar for signature on the order</i>	
14.	<i>Date on which the file goes to the dispatch section for dispatch the Tribunal order</i>	
15.	<i>Date of Dispatch of the Order</i>	
16.	<i>Date on which the file goes to the Record Room after dispatch the order</i>	