IN THE INCOME TAX APPELLATE TRIBUNAL "SMC" BENCH, KOLKATA

SHRI RAJESH KUMAR, ACCOUNTANT MEMBER

I.T.A. No.2157/Kol/2025
(Assessment Year 2014-15)

Sarita Goenka,
C/o Deepak Agrawal, FCA,
Fortuna Tower, Room No. 51,
11th Floor, 23A, Netaji Subhas Road,
Kolkata – 1 (W.B.)
[PAN: BETPG3096Q] ….................................**Appellant**

vs.

Income Tax Officer
Ward 49(1)
Uttarapan Complex, D S -IV,
Ultadanga, Kolkata – 700054 **…........................... Respondent**

Appearances by:

Assessee represented by	:	Ravi Agarwal, CA
Department represented by	:	Mrinmay Basak, Sr. DR
Date of concluding the hearing	:	16.12.2025
Date of pronouncing the order	:	19.12.2025

O R D E R

The present appeal filed by the assessee arises from order dated 05.08.2025passed u/s 250 of the Income Tax Act, 1961 (hereafter "the Act") by the Ld. Commissioner of Income Tax (Appeals), [hereafter "the Ld. CIT(A)].

2. The issue raised by the assessee is against the order of Ld. CIT(A) upholding the assessment order which is invalid and bad in law as the same is passed consequent to the notice issued u/s 148 of the Act which was never served on the assessee and thus is time barred by limitation.

3. The facts in brief are that the assessee has not filed any return of income for the assessment year under consideration. The Investigation Wing found on the basis of investigation conducted that a racket of accommodation entries in the form of Long Term Capital Gains/Short Term Capital Gains on penny-stock is operative in the market. The Investigation Wing noted that the assessee is a beneficiary of such accommodation entry of sale of shares of M/s Global Capital Market Limited. Accordingly, the case of the assessee was reopened u/s 147 of the Act by issuing notice u/s 148 on 31.03.2021. Thereafter, notice u/s 142(1) along with questionnaire was issued. There was no compliance of the said notice even which the assessee stated to be attributable to non service upon the assessee. Finally, the addition of Rs. 6,08,924/- was made to the income of the assessee.

4. In the appellate proceedings, the Ld. CIT(A) set aside the appeal to the file of AO with a direction to decide the same afresh.

5. After hearing the rival contention and perusing the material on record, we find from the perusal of the notice issued u/s 148 of the Act dated 31.03.2021 a copy of which is available at page no. 4 that it was issued to the assessee however, the copy of e-filing portal which is available at page 5 of the paper book reveals that the said notice was never served on the assessee. Both the copy of the notice u/s 148 as well as the copy of online portal is extracted below.:

> *"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 2014-15 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, Kolkata-5"*
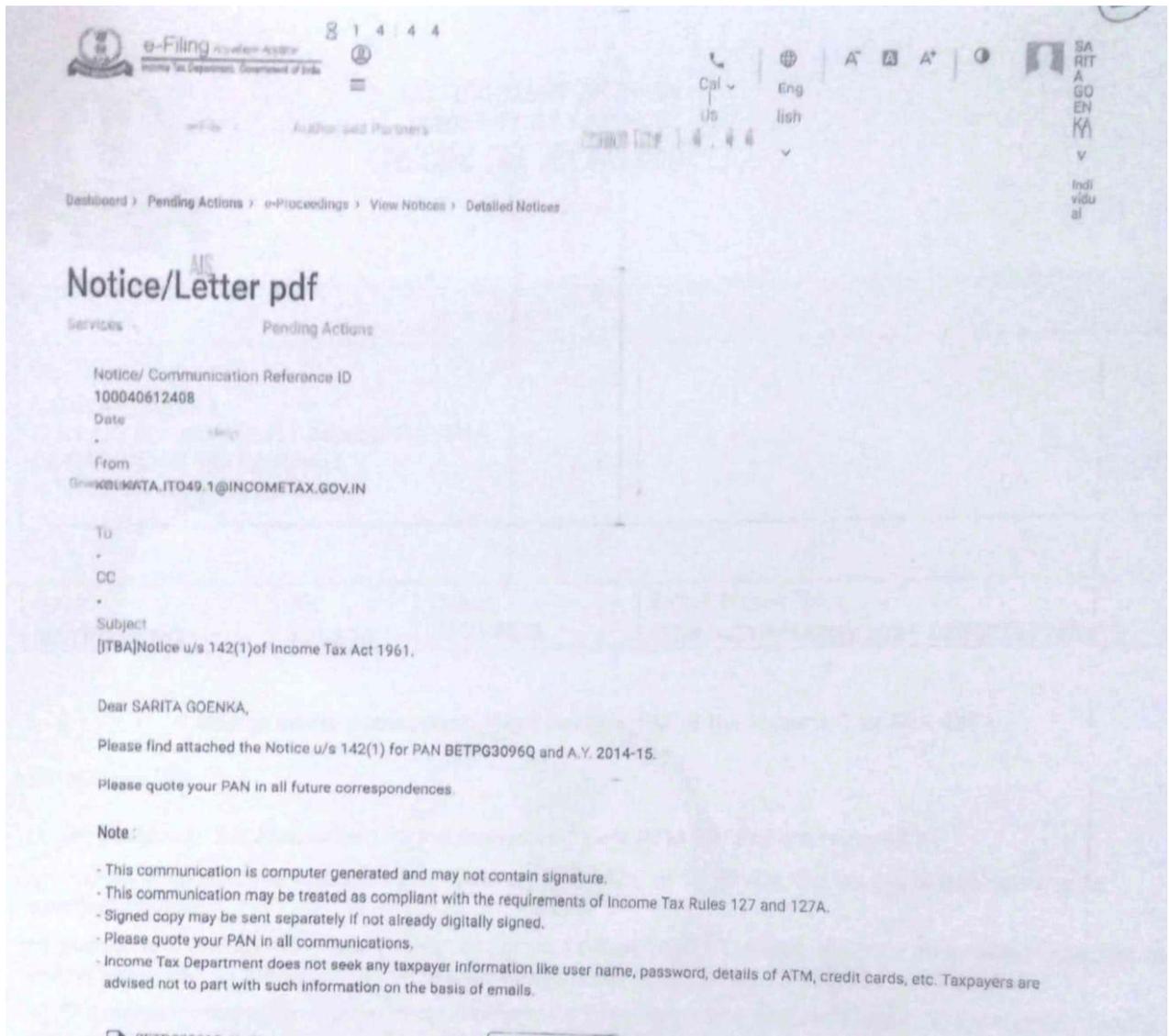
6.   after taking into account the above , we are of the view that the notice was never served upon the assessee. When Sr. DR was confronted with the issue, he could not controvert the arguments of Ld. AR that it was never served by referring to the copy of e-filing portal. Consequently, we hold that the assessment framed by the AO is invalid assessment as the notice u/s 148 of the Act was not served on the assessee and has also become barred by limitation. Consequently, the notice u/s 148 of the Act as well as the assessment framed is quashed.

7.   In result, appeal of the assessee is allowed

Order pronounced on 19.12.2025

Sd/-
(Rajesh Kumar)
Accountant Member

Dated: 19.12.2025
AK,Sr.P.S.

Copy of the order forwarded to:
1. Appellant
2. Respondent
3. Pr. CIT
4. CIT(A)
5. CIT(DR)

//True copy//

By order

Assistant Registrar, Kolkata Benches