

**IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH, DELHI**

**BEFORE SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER &
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

**ITA No. 547/Del/2024
(Assessment Year: 2012-13)**

M/s Achraj Singh Madhan, H. No. 863, Sector- 46, Jharsa Haryana – 122003	Vs.	Commissioner of Income Tax, Ward - 1(1) HSHDC Building, Vanijya Nikunj, Udhyog Vihar, Phase - C Gurugram Haryana – 122001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No: AZHPM5804A		
Appellant	..	Respondent

Appellant by :	Sh. M.R. Sahu, CA
Respondent by :	Sh. Ajay Kumar Arora, Sr. DR

Date of Hearing	03.11.2025
Date of Pronouncement	29.12.2025

ORDER

PER ANUBHAV SHARMA, JM:

This appeal is preferred by the assessee against the order dated 08.12.2023 of the Ld. National Faceless Appeal Centre (NFAC) Delhi, (hereinafter referred as Ld. First Appellate Authority or in short Ld. ‘FAA’)

in DIN & Order No : ITBA/NFAC/S/250/2023-24/1058599122(1) arising out of the order dated 24.11.2019 passed u/s 144 r.w.s 147 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') by the ITO, Ward 1(1) for AY: 2012-13.

2. On hearing both the sides we find that among other grounds on merits assessee has raised additional grounds of appeal vide letter dated 04.02.2025 and the same are reproduced below:

“1. That on the facts, and in the circumstances of the case and in law, the ITO, Ward 1(1), Gurugram [AO] erred in passing the assessment order u/s.144 r.w.s u/s.147 without considering the jurisdictional requirement that the very foundation of the jurisdiction to initiate income escaped assessment u/s.147 is the proper service of a notice u/s.148 and in the present case no such jurisdictional notice u/s.148 was neither issued quoting present address reflected on the face of the return of income nor transmitted in the Email Id of the assessee, accordingly the same was neither received nor served upon the assessee, thus the assessee prays that the reassessment order passed without fulfilling the jurisdictional requirement may kindly be held as null and void and deserves to be quashed.”

3. The additional ground raised goes to the root of assumption of jurisdiction and being a legal ground which can be decided on admitted facts, the same is admitted for hearing.

4. It comes up that the assessee is an agriculturist deriving income from agriculture activities and interest income from Banks. The assessee had funds

in hand on account of agriculture lands sold earlier and also from agriculture operations. The assessee changed his residence and the department sent all notices on the old address which were not acknowledged/ delivered to the assessee. Hence, an addition of Rs2,33,79,248/- was made on account of cash deposit/interest/credit entries which now assessee alleges was without giving an opportunity to the assessee to represent his case.

5. The contention of the assessee is that the notice u/s 148 of the Act, was issued at the Karnal address which was the old address of the assessee and assessee was not residing at Karnal and address of Gurugram was available with the AO but no notice for reopening was sent at Gurugram.

6. This has been countered by the AO by filing a report that notice u/s 148 was sent at House No. 863, Sector 46, Gurugram and the contention of the assessee is incorrect. A copy of notice dated 24.11.2019 is filed wherein address of assessee of Gurugram is mentioned alongwith Document Identification Number (DIN) generated on 24.11.2019.

7. Assessee on his part submits that notice u/s 148 dated 22.03.2019 was sent at the address at Karnal and the copy of the same is provided at page No. 4 of the paper book. Now as we see the assessment order it mentions of

notice dated 22.03.2019 u/s 148 of the Act being issued and served upon the assessee through speed post/registered post. There is no mention of notice u/s 148 being issued on 24.11.2019 for assumption of jurisdiction rather a copy of this notice provided to us dated 24.11.2019 is with regard to intimation u/s 144 r.w.s 147 of the Act for which in the assessment order AO mentions that a show cause notice u/s 144 dated 11.11.2019 was issued to the assessee, by which assessee was called upon to submit reply by 18.11.2019. Thus, factual report submitted by the AO does not help the department in controverting the assertion of the assessee that no notice u/s 147/148 of the Act was served upon the assessee at his present and known address which was in the knowledge of AO all the while as apart from this notice u/s 148 of the Act remaining communications were sent at correct address of Gurugram.

8. Hon'ble Delhi High Court in **Veena Devi Karnani vs. ITO; 410 ITR 23 (Del)** has held such notice sent to old address to be bad and assessment is liable to be quashed. Revenue's invocation of Section 292-B of the Act was also held not to be sustainable as Hon'ble High Court observed;

“Revenue’s invocation of Section 292-B only needs to be noticed in order to be rejected as countenancing it, would mean that all illegalities are deemed to be tapered over, in its favour. Section 292-B

in the opinion of the Court would admit that no controversy with respect to the question of notice or proper service of summons, if at all were issued in the proper manner, known to law.”

9. Thus, we are inclined to sustain the additional ground raised to hold that re-assessment jurisdiction was assumed on the basis of notice which was never served upon the assessee. **Appeal of the assessee is allowed.** Impugned assessment order is quashed.

Order pronounced in the open court on 29.12.2025

Sd/-
(S. Rifaur Rahman)
ACCOUNTANT MEMBER

Sd/-
(Anubhav Sharma)
JUDICIAL MEMBER

Dated 29.12.2025
Rohit, Sr. PS

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI