

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH “C”: NEW DELHI**

**BEFORE Ms. MADHUMITA ROY, JUDICIAL MEMBER
AND
SMT. RENU JAUHRI, ACCOUNTANT MEMBER**

**ITA No. 689/DEL/2023 [u/s 147/144] A.Y. 2012-13
&
ITA No. 690/DEL/2023 [u/s 271(1)(b)] A.Y. 2012-13**

Krishan Kumar, 970, Sector 16-17, Hisar, Haryana-125001.	<u>Vs</u>	Income tax Officer, Ward-2, Hisar.
PAN: ASEPK 4606 N		
APPELLANT		RESPONDENT
Assessee represented by	Shri Lalit Mohan, CA	
Department represented by	Sh. Chandra Bhanu Mandal, Sr. DR	
Date of hearing	23.12.2025	
Date of pronouncement	23.12.2025	

ORDER

PER BENCH:

The captioned appeals, preferred by the assessee, are directed against separate orders passed by the National Faceless Appeal Centre (NFAC), Delhi, dated 01.03.2023 [DIN & Order No. ITBA/NFAC/S/250/2022-23/1050269562(1)] and dated 18.01.2023 [DIN & Order No. ITBA/NFAC/S/250/2022-23/1048881078(1)], under Section 147/144 and 271(1)(b) of the Income Tax Act, 1961 (hereinafter referred to as “the Act”), respectively, for the assessment year

2012-13. Both the appeals were heard together and are being disposed of by a common order for the sake of convenience.

2. At the outset Learned AR appearing on behalf of the assessee submitted that the notice under Section 148 of the Act dated 26.03.2019 issued to the assessee at the address “124, Type 4, Vidyut Nagar Hisar”, appearing at page 5 of the paper book filed before us, was returned back to the Department with the postal remarks “No one resides by this name at the given address, hence returned”. Proof is appearing at pages 6 & 7 of the paper book filed before us. In this regard the Learned Counsel appearing for the assessee has further drawn our attention to page 42 of the paper book wherein the reasons for issuing notice issued under Section 148 of the Act the address mentioned therein is “House No. 970, Sector 16-17, Hisar”. Page 44 of the paper book speaks of the proceedings initiated under Section 147/148 of the Act, the format whereof also mentions the address “House No. 970, Sector 16-17, Hisar”. It is the case of the assessee that proceedings though continued subsequently mentioning the address “House No. 970, Sector 16-17, Hisar”, no notice under Section 148 of the Act was ever served on the assessee on this particular address. Under these circumstances of the matter we called for a report from the Learned DR and on 17.07.2025, the Bench passed the order as follows:

*“Assessee represented by: Sh. Lalit Mohan, CA
Department represented by: Sh. Om Prakash Sr. DR*

It is the case of the assessee that no notice under Section 148 was served upon him. In fact, it appears from the records that the notice under Section 148 of the Act was served upon the assessee on a wrong address appearing at page 9 of the records filed by the Ld. DR before us. It was served upon the assessee on the address at page 8, being 124 Type 4 Vidyut Nagar Hisar, 125005 Haryana, India. However, the Ld. DR has drawn our attention to page 9 of the assessment records which contains the notice under Section 148 issued on 26.03.2019 sought to be served upon the assessee on the address at H. No 970 Sector 16 6 17 Hisar. Though this notice under Section 148 was served upon the assessee at 124 Type 4 Vidyut Nagar, Hisar, 125005 is tagged along with the postal note that 'No one of this name is found here', the notice under Section 148 of the Act as per the Ld. DR is sought to be served upon the assessee dated 26.03.2019 at H. No. 970 Sector 16 & 17 Hisar is not supported by any acknowledgement either from the assessee or from the postal department. In that view of the matter in order to justify the service of notice under Section 148 of the Act dated 26.03.2019 the Id. DR is granted 15 days time to place on record the postal acknowledgment and/or proof of service before us. The matter is adjourned to 06.08.2025. The same is kept as part heard.

*Sd/-
AVDHESH KUMAR MISHRA
ACCOUNTANT MEMBER*

*Sd/-
MADHUMITA ROY
JUDICIAL MEMBER”*

3. The Learned DR filed another report wherefrom it appears that on 26.03.2019 the second copy of notice under Section 148 of the Act was sought to be served upon the assessee through speed post at “House No. 970, Sector 16-17, Hisar” but the same was never returned back. He has further clarified this in his report that on 26.03.2019 2nd copy of notice under Section 148 of the Act sought to

be served upon the assessee through e-mail being “ANILPROMILA01@GMAIL.COM.”. The Learned AR appearing for the assessee rebutted that the said e-mail was never provided by the assessee to the Department as he is a non-filer. It is evident that the Department has failed to show any proper service of such notice which was sought to be served upon the assessee at “House No. 970, Sector 16-17, Hisar”. The Learned DR also has not been able to satisfy the Bench as to how the notice sought to be served on the assessee on 26.03.2019 through postal department has been received by the assessee as only because the same has not been returned back. Reopening of assessment under Section 147 of the Act can only be justified upon issuance and service of notice under Section 148 of the Act which is sine qua non and admittedly the same has not been established properly by the Department before us and service of notice could not be accepted on presumption basis.

4. Under these facts and circumstances of the matter we are not inclined to accept that the notice under Section 148 of the Act has been served upon the assessee either through e-mail or through postal department and hence in the absence of notice under Section 148 of the Act having been served upon the assessee the entire proceeding is vitiated and therefore, liable to be quashed. We order accordingly.

5. Relevant to mention that notice under Section 271(1)(b) was also sought to be served upon the assessee at the address lying and situated at “House No. 970, Sector 16-17, Hisar” which admittedly was not served upon the assessee. Once the assessment proceedings are quashed the consequential penalty order is also to be quashed. Ordered accordingly.

6. In the result assessee’s appeals ITA Nos. 689 & 690/Del/2023 are allowed. Order pronounced in open court on 23.12.2025.

Sd/-
(SMT. RENU JAUHRI)
ACCOUNTANT MEMBER

Sd/-
(Ms. MADHUMITA ROY)
JUDICIAL MEMBER

Dated: 23.12.2025.

MP

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI