

आयकर अपीलिय अधिकरण, 'डी' न्यायपीठ, चेन्नई। IN THE INCOME TAX APPELLATE TRIBUNAL 'D' BENCH: CHENNAI		
श्री मनु कुमार गिरि, न्यायिक सदस्य एवं श्री एस. आर. रघुनाथा लेखा सदस्य BEFORE SHRI MANU KUMAR GIRI, JUDICIAL MEMBER AND SHRI S.R.RAGHUNATHA, ACCOUNTANT MEMBER		
आयकर अपील सं./ITA No 2388/Chny/2025 निर्धारण वर्ष/Assessment Year: 2017-18		
Haneef Akbar Basha, Old No. 12 New No 6, Abdul Wahab Sahib Street, Melvisharam, Walaja-632 509	v.	ITO, WARD 2, Tiruvannamalai-606601
[PAN: AJLPA 6317 Q]		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Assessee by	:	Ms. T.V. Muthu Abirami, Advocate
प्रत्यर्थी की ओर से /Respondent by	:	Mr. A.T. Krishnamoorthy, JCIT
सुनवाई की तारीख/Date of Hearing	:	13.11.2025
घोषणा की तारीख /Date of Pronouncement	:	09.02.2026

आदेश / ORDER

PER MANU KUMAR GIRI, JM:

The captioned appeal by the assessee is arising out of the order of the Ld. Commissioner of Income Tax (Appeals)/NFAC, Delhi dated 31.01.2025 for AY 2017-18.



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2. The Id.AR for the assessee craves the leave of this Tribunal to file the following additional grounds of appeal. The Id.AR for the assessee submits that the failure to raise the following grounds was purely due to inadvertence. The Id.AR for the assessee further submits that these grounds are jurisdictional in nature and goes to the roots of the matter and further, facts relating to said additional grounds are very much available on record before the Assessing Office. Therefore, she pleaded that in light of decision of the Hon'ble Supreme Court in the case of National Thermal Power Co. Ltd. Vs CIT [1998] 229 ITR 383, additional grounds filed by the assessee may be admitted. The Id.AR for the assessee further submits that this omission is not intentional and craves the leave of this Tribunal to admit the following additional grounds:

1.1 For that the order passed by the Income Tax Officer Ward 2 Tiruvannamalai is bad in law since he is not the jurisdictional Assessing Officer. Consequently, the assessment order lacks jurisdiction and therefore its bad in law.

1.2 For that the assessment order ought to have been passed by the Jurisdictional Assessing Officer who is Income Tax Officer Ward 2 Vellore. Consequently, the assessment order lacks jurisdiction and therefore its bad in law.



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3. We note that the above additional grounds are touching on the jurisdictional issue hence we admit the same in the light of the decision of the Hon'ble Supreme Court in the case of National Thermal Power Co. Ltd. Vs CIT [1998] 229 ITR 383. If we decide the jurisdictional issue, then other grounds raised by the assessee would become academic.

4. The assessee has filed the detailed history of PAN jurisdiction as under:

S. No	PAN	Transfer From	Transfer TO	Transfer Order No.	Transfer Date
1	AJLPA6317Q	Ward 2 Tiruvannamalai	Ward 2 Vellore	200000901619	03.06.2020
2	AJLPA6317Q	Ward 2 Vellore	Ward 2 Tiruvannamalai	200000737854	06.08.2019
3	AJLPA6317Q	Ward 1 Tiruvannamalai	Ward 2 Vellore	200000574986	26.09.2018
4	AJLPA6317Q	Circle 1 Vellore	Ward 1 Tiruvannamalai	104003864226	24.07.2015

5. Following proceedings are conducted as under:

S. No.	Particulars of Proceedings	Place of Jurisdiction	Date
1	Notice u/s.142(1) for AY 2017-18	Ward 2 Tiruvannamalai	10.03.2018
2	Show cause notice regarding cash deposit pursuant to Notice u/s.142(1) for AY 2017-18 dated 10.03.2018	Ward 2 Vellore	20.07.2019
3	Original Return for AY 2017-18 filed	ITO, Ward 2 Vellore	26.08.2019



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4	Assessment Order u/s.144	Ward 2 Tiruvannamalai	08.12.2019
5	Rectification Order u/s.154 r.w.s 144	Ward 2 Vellore	21.07.2020

6. With respect to notice u/s.148 dated 28.03.2018 for AY 2011-12, the transfer memo as on 15.05.2018 says "Jurisdiction vests with ITO Ward-2, Vellore".

7. The address of the assessee throughout all proceedings are as under:

"OLD NO.12 NVVE NO.6 ABDUL WAHAB SAHIB STREET,
MELVISHARAM WALAJA, VELLORE 632509, TAMILNADU, India"

8. The Id.AR referred to the following case for the proposition that order passed by the non-jurisdictional AO is invalid and also without an order of transfer u/s.127, assessment order is void:

INDEX TO CASE LAWS-2

S.N O.	PARTICULARS	PAGE NO.
	Order passed by non-jurisdictional Assessing Officer is invalid	
1	HIRA PATARI Vs KALI NATH [AIR 1962 SC 199 SC]	1-4
2	KIRAN SINGH Vs CHAMAN PASWAN [1954 AIR 340 SC]	5-14
	Without an order of transfer u/s.127 assessment order is void	
3	Mega Corporation Ltd. vs. Additional Commissioner of Income-tax, Range -6, New Delhi [2015] 62 taxmann.com 351 (Delhi - Trib.)/[2015] 155 ITD 1019 (Delhi - Trib.)[22-09-2015]	15-32



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4	Nagindas Kasturchand and Bros. vs. Principal Commissioner of Income-tax-3 [2022] 138 taxmann.com 365 (Gujarat)/[2022] 288 Taxman 66 (Gujarat)/[2022] 445 ITR 50 (Gujarat)[11-04-2022]	33-62
5	Noorul Islam Educational Trust vs. Commissioner of Income-tax-I [2016] 76 taxmann.com 144 (SC)/[2016] 243 Taxman 519 (SC)/[2016] 388 ITR 489 (SC)/[2017] 291 CTR 230 (SC)[21-10-2016]	63-65
6	Shyam Sunder Bhartia v. Dy.CIT (2023) 225 TTJ 837 (Lucknow) (Trib)	66
7	Bidi Supply Co. vs. Union of India [1956] 29 ITR 717 (SC)[20-03-1956]	67-82

She also referred to the following citations:

- *Ajantha Industries vs. Central Board of Direct Taxes* [1976] 102 ITR 281 (SC)[05-12-1975];
- *Raj Sheela Growth Fund (P.) Ltd. vs. Income-tax Officer* [2024] 165 taxmann.com 182 (Delhi)/[2024] 466 ITR 26 (Delhi)[08-05-2024] at paras 16, 19, 22, 25;
- [1972] 83 ITR 130 (MP) *Sagarmal Spinning & Weaving Mills Ltd. v. Central Board of Direct Taxes*;
- *M/s Aman Holdings Pvt. Ltd. Vs PCIT ITA No.660/Del/2021 dated 23.07.2025 at paras 13 & 14 Page 14-15.*

9. Per contra, Id.DR for the revenue submitted that there are no jurisdictional errors and assessee participated in the entire proceedings.

10. We have carefully considered the rival submissions, perused the material available on record and examined the legal position. The additional grounds raised by the assessee challenge the very jurisdiction of the Assessing Officer who passed the impugned assessment order. Since these grounds go to the root of the matter, they deserve to be adjudicated first.



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11. From the records placed before us, it is evident that the PAN jurisdiction of the assessee has undergone multiple transfers over a period of time. The detailed history of jurisdiction clearly demonstrates that, as per the transfer memo dated 15.05.2018 in relation to notice issued u/s. 148 for AY 2011-12, the jurisdiction vested with ITO, Ward-2, Vellore. Further, the assessee's address throughout all proceedings has remained within the territorial jurisdiction of Vellore.

12. The chronology of proceedings also reveals serious inconsistencies. While the original return for AY 2017-18 was filed with ITO, Ward-2, Vellore, the assessment order u/s. 144 dated 08.12.2019 was passed by ITO, Ward-2, Tiruvannamalai. Interestingly, the subsequent rectification order u/s. 154 r.w.s.144 dated 21.07.2020 was again passed by ITO, Ward-2, Vellore, which further fortifies the assessee's contention that jurisdiction, in fact, lay with Vellore.

13. The Revenue has not been able to place on record any valid order passed u/s. 127 of the Act transferring jurisdiction from ITO, Ward-2, Vellore to ITO, Ward-2, Tiruvannamalai prior to the passing of the assessment order. In absence of such an order, the Assessing Officer at Tiruvannamalai could not have assumed jurisdiction merely on the basis of earlier proceedings or participation by the assessee.

14. It is a settled proposition of law that an order passed by a non-jurisdictional Assessing Officer is void ab initio. Jurisdiction cannot



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be conferred by consent, acquiescence, or participation of the assessee. Reliance in this regard can be safely placed on the decisions of the Hon'ble Supreme Court in *Bidi Supply Co. vs. Union of India* (29 ITR 717), *Ajantha Industries vs. CBDT* (102 ITR 281), and *Noorul Islam Educational Trust vs. CIT* (388 ITR 489), as well as the decisions of various High Courts and Coordinate Benches relied upon by the assessee, including *Mega Corporation Ltd. (Delhi ITAT)* and *Nagindas Kasturchand and Bros. (Gujarat High Court)*.

15. Recently, the Hon'ble Supreme Court in the case of "*The State Of West Bengal vs Jai Hind P.Ltd*" [CIVIL APPEAL NO.7407 OF 2012 dated 06.02.2026] has authoritatively pronounced that "when is a decree NULL and VOID ?". The Hon'ble Supreme Court opined that "competence of a Court to try a case goes to the very root of the jurisdiction, and where it is lacking, it is a case of inherent lack of jurisdiction", as was held in *Hira Lal Patni v. Kali Nath* [AIR 1962 SC 199 SC]. A decree or order passed by a Court which lacks inherent jurisdiction in passing such an order or decree is non-est and void ab initio, as was held by this Court in the case of *Balvant N. Viswamitra v. Yadav Sadashiv Mule* AIR 2004 SC 4377 / 2004 (8) SCC 706. In the said case, a three-judge Bench of this Court held that:

"9...The main question which arises for our consideration is whether the decree passed by the trial court can be said to be "null" and "void". In our opinion, the law on the point is well settled. The distinction between a decree which is void and a



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decree which is wrong, incorrect, irregular or not in accordance with law cannot be overlooked or ignored. Where a court lacks inherent jurisdiction in passing a decree or making an order, a decree or order passed by such court would be without jurisdiction, non est and void ab initio. A defect of jurisdiction of the court goes to the root of the matter and strikes at the very authority of the court to pass a decree or make an order. Such defect has always been treated as basic and fundamental and a decree or order passed by a court or an authority having no jurisdiction is a nullity. Validity of such decree or order can be challenged at any stage, even in execution or collateral proceedings."

16. The contention of the Id. DR that the assessee participated in the proceedings does not advance the case of the Revenue. Jurisdictional defects strike at the very authority of the Assessing Officer to pass an order, and such defects are not curable u/s. 292BB of the Act.

17. In view of the above factual matrix and settled legal position, we hold that the assessment order dated 08.12.2019 passed u/s. 144 by ITO, Ward-2, Tiruvannamalai is without jurisdiction and void in law. Consequently, the impugned order of the Id. CIT(A) sustaining such assessment cannot be upheld.



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18. Since we have quashed the assessment on jurisdictional grounds, the other grounds raised by the assessee on merits become academic in nature and are, therefore, not adjudicated.

19. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open court on 09th day of February, 2026 at Chennai.

Sd/-

(एस. आर. रघुनाथा)

(S.R.RAGHUNATHA)

लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-

(मनु कुमार गिरि)

(MANU KUMAR GIRI)

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: 09th February, 2026.

SNDP, Sr. PS

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT, Chennai / Madurai / Salem / Coimbatore.
4. विभागीय प्रतिनिधि/DR
5. गार्डफाईल/GF