

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'A' NEW DELHI**

**BEFORE SHRI S.V. MEHROTRA, ACCOUNTANT MEMBER
AND
SHRI SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER**

**ITA No. 6668/Del/2014
AY: 2009-10**

**ITA No. 1709/Del/2013
AY: 2009-10**

**Stay No. 518/Del/2015
(In ITA No. 6668/Del/2014)
AY: 2009-10**

**Avnisht Panwar,
C/o Shri V.K. Goel, Advocate,
282, Boundry Road,
Civil Lines,
Meerut.
(PAN: BJZPP2435B)**

**vs Income Tax Officer,
Ward-1(1),
Meerut.**

(Appellant)

(Respondent)

Appellant by: S/Shri K. Sampath, Raja Kumar, Adv.
Respondent by: Shri S.L. Anuragi DR

**Date of hearing: 16.02.2016
Date of pronouncement:**

ORDER

PER SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER

Both the appeals are preferred by the assessee. I.T.A. No. 1709 pertains to assessment year 2009-10 and is preferred against the order dated 11.03.2013 passed by the Ld. CIT(A), Meerut. I.T.A. No. 6668 also pertains to assessment year 2009-10 and is preferred against order dated 28.11.2014 passed by the

Ld. CIT(A), Meerut confirming penalty of Rs.1,55,00,000/- imposed u/s 271(1)(c) of the Income Tax Act, 1961 (hereinafter called 'the Act'). Since both the appeals were heard together, they are being disposed of through this common order.

2. In I.T.A. No. 1709/Del/2013, the assessee has taken legal ground challenging the jurisdiction of the Assessing Officer to take up the assessee's case. He has also challenged the dismissal of the appeal by the Ld. CIT(A) on merits. However, we deem it fit to adjudicate on the legal issue at the threshold before proceeding to hear both the parties on merits. Ground nos. 1 & 2 of the appeal are as under:-

"1. That Ld. A.O. as well as Ld. CIT(A) to hold that I.T.O. is having jurisdiction of the case which was filed by the assessee more than Rs. 5 Crore and the assessee filed the return before A.C.I.T.. Circle 1, Meerut. Therefore, assumption of jurisdiction without transferring the case by CIT, Meerut. Ld. I.T.O. assumed jurisdiction and continued the proceeding U/s 148/143(3) is void ab-initio because the A.O. never having jurisdiction u/s 120 of I.T. Act hence, assessment framed by the A.O is without jurisdiction and bad in law.

2. That Ld. CIT(A), Meerut is in error in holding that the assessee can make objection u/s 124(3) before A.O. is misinterpretation of the provision because if issuance of notice U/s 148 void ab-initio then there is no need to make objection."

3. The Ld. AR submitted that the assessee had filed his Return of Income showing a total income of Rs. 5,31,88,771/- and, therefore, in terms of Instruction No. 1/2011[F No.187/12/2010-IT(A-17)] dated 31.1.2011, the jurisdiction of the Assessing Officer was only upto Rs. 15.00 of returned income and accordingly, the assumption of jurisdiction by I.T.O. Ward 1(1), Meerut was partly illegal.

4. As far as I.T.A. No. 6668/Delhi/2014 was concerned, the penalty was also imposed by Income Tax Officer, Ward-1(1), Meerut which again was without jurisdiction and hence void.

5. The Ld. DR in all fairness agreed that both the matters should be restored to the officer having jurisdiction over the case.

6. Accordingly, we set aside the impugned orders in both the appeals and restore the matter to the file of ACIT, Meerut for fresh adjudication after giving the assessee due opportunity of being heard.

7. The grounds of appeal on merits are dismissed as having become infructuous. As far as the petition of stay is concerned, the same is also dismissed as having become infructuous.

8. In the result, the assessee's both appeals are partly allowed for statistical purposes and the stay petition is dismissed.

Order pronounced in the Open Court on 16.05.2016.

Sd/-

**(S.V. MEHROTRA)
ACCOUNTANT MEMBER**

Sd/-

**(SUDHANSHU SRIVASTAVA)
JUDICIAL MEMBER**

Dated: the 16th of May, 2016

‘GS’

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

By Order

ASSTT. REGISTRAR