

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
DELHI BENCHES, NEW DELHI  
(CIRCUIT BENCH AT MEERUT)**

**BEFORE : SHRI.I.C. SUDHIR, JUDICIAL MEMBER AND  
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER**

**ITA No.3498/Del/2014  
(Asstt. Year:1999-2000)**

Rekha Aggarwal, C/o. Vinod Kumar Goel, 282, Boundary Road, Civil Lines, Meerut PAN:AAIPA0325N	Vs.	ITO, Ward-24(4), New Delhi
<b>(Appellant)</b>		<b>(Respondent)</b>

Date of hearing	18/12/2015
Date of pronouncement	15/03/2016
Assessee by:	Sh. V.K. Goyal, Adv
Revenue by:	Sh. Bharat Bhushan Garg, Sr. DR

**ORDER**

**PER PRASHANT MAHARISHI, A. M.**

1. This appeal is preferred by the assessee against the order of the learned Commissioner of Income-tax (Appeals)-XXIII, New Delhi for the Assessment Year 1999-2000.
2. The assessee has raised the following grounds of appeal:-
  1. *That the order passed U/s 147/148 of I.T. Act is illegal as Act provide assessment only U/s 143(1), 143(3) and 144 of I.T. Act. Therefore, assessment made by learned Assessing Officer is ab initio void.*
  2. *That reopening of assessment U/s 147 read with Section 150 as directed by I.T.A.T. is bar by limitation because order in appeal in I.T.A.T. was order passed by learned CIT(A) dated 26-12-2006 on which, Assessing Officer cannot be reopen the case. Hence, reopening of assessment is against the provisions of Section 150(2) of I.T. Act. As decided in the case of Sh. K.M. Sharma Vs. I.T.O., 122 Taxman 426 and*

*other case cited by the assessee to learned Assessing Officer and Ld. CIT(A) is in error in confirming reopening of the case.*

3. Brief facts of the case is that coordinate bench of tribunal has decided any in case of assessee for assessment year 1998 - 99 in ITA No. 1392/del/2007, wherein it has been held that an addition of Rs. 4 04340/- pertains to assessment year 1999 - 2000 and accordingly directed the Ld. assessing officer to add that this amount in assessment year 19 99-2000. Therefore, in pursuance of those directions Ld. assessing officer issued notice u/s 148 of the income tax act on 30/09/2010. Assessee contested this notice stating that on the date of order the assessment for assessment year 1999 - 2000 has become time-barred. Hence NOW this amount cannot be added in assessment year 1999- 2000 by taking recourse to provisions of section 148 of the income tax act in view of bar contained in provisions of section 150 (2) of the income tax act. This contention was found to be unacceptable to lower authorities. And, therefore, same is also challenged before us by ground No. 2 of the appeal.
4. We take up the second ground of appeal of the assessee, which is that order of ITAT was passed on 26/12/2006 and order is passed by ld AO for AY 1999-2000. As on the date of passing of the order of ITAT the assessment for AY 1999-2000 could not have been reopened as the time limit provided u/s 150(2) rws 149 of the act has already passed. Before lower authorities this argument was not accepted. Hence assessee has taken this ground of appeal.

5. We have heard rival contention. Provisions of section 150 of the Income tax Act are as under :-

**Provision for cases where assessment is in pursuance of an order on appeal, etc.**

**150.** (1) Notwithstanding anything contained in section 149, the notice under section 148 may be issued at any time for the purpose of making an assessment or reassessment or recomputation in consequence of or to give effect to <sup>7</sup>any finding or direction contained in an order passed by any authority in any proceeding under this Act by way of appeal, reference or revision <sup>8</sup>[or by a Court in any proceeding under any other law].

(2) The provisions of sub-section (1) shall not apply in any case where any such assessment, reassessment or recomputation as is referred to in that sub-section relates to an assessment year in respect of which an assessment, reassessment or recomputation could not have been made at the time the order which was the subject-matter of the appeal, reference or revision, as the case may be, was made by reason of any other provision limiting the time within which any action for assessment, reassessment or recomputation may be taken.

6. In the present case for any notice of reassessment to be issued for AY 1999-2000 u/s 148 of the act it should have been issued within time limit of six years from the end of the relevant assessment year. In this case, the assessment year has ended on 31.3.2000 and six years from that would have ended on 31.3.2006. Therefore, no notice would have been issued to the assessee beyond 31.3.2006. Here the appellate order is dated 26/12/2006. Therefore, on that date the assessment year 1999-2000 was beyond the provision of section 150(1) of the Income tax Act. Therefore on the basis of above facts we are of the view that no notice could have been issued to the assessee u/s 148 of the act for AY 1999-2000 based on provision of section 150(2) of the act. Hence we reverse order of CIT (A) and quash the notice issued u/s 148 of the act. Hence ground no 2 of the appeal is allowed.

7. As we have already quashed reassessment notice issued u/s 148 of the act based on prohibition contained u/s 150 (2) of the act we do not wish to adjudicate ground no 1 of the appeal. Hence ground no 1 is dismissed.
8. In the result appeal of the assessee is partly allowed.
9. **Order pronounced in the open court on .03.2016.**

**(I.C. SUDHIR)**  
Judicial Member

**(PRASHANT MAHARISHI)**  
Accountant Member

Dated: .03.2016

\*Ajay Kumar Keot

*Copy of order forwarded to:*

(1) *The appellant*  
(3) *Commissioner*  
(5) *Departmental Representative*

(2) *The respondent*  
(4) *CIT (A)*  
(6) *Guard File*

*By order*

*Assistant Registrar*  
*Income Tax Appellate Tribunal*  
*Delhi Benches, New Delhi*