

Meena Swarup

ITA No.2050

ITAT • Delhi | Source extract brief | 15 source pages

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01 FACTS OF THE CASE

"The present appeal is filed by assessee against the order dated 14.12.2018 passed by Ld. Commissioner of Income Tax (A)-43, New Delhi ["Ld.CIT(A)"] in Appeal No.197/2016-17 u/s 250 of the Income Tax Act, 1961 ["the Act"] arising out of assessment order dated 31.12.2016 passed u/s 143(3) of the Act pertaining to Assessment Year 2014-15. 2. Brief facts of the case are that assessee is an individual and is non-resident and return of income was filed on 31.07.2014 declaring total income of INR 47,320/- with ITO, Ward-22(4), Delhi in terms of the e-filing acknowledgement. The case of the assessee was selected for scrutiny by issue of notice u/s 143(2) of the Act dt. ..." (source PDF page 1)

02 DISCUSSION BY THE HON'BLE TRIBUNAL

"we find that assessee's case is covered by the judgement of Hon'ble Calcutta High Court in the case of PCIT vs Nopany & Sons (supra) wherein Hon'ble High Court held that notice issued u/s 143(2) by the AO who at that relevant point, had no jurisdiction over the assessee, thus, the notice issued u/s 143(2) of the Act had no jurisdiction. 18. Further, the Hon'ble Supreme Court in the case of ACIT vs Hotel Blue Moon (supra) has held that omission on the part of the AO to issue notice u/s 143(2) cannot be a procedural irregularity and the same is not curable. The Hon'ble Allahabd High Court in the case of CIT vs M.I.Builders (P) Ltd. [2012] 349 ITR 271 (Allahabad) held that the notice issued by non-jurisdictional AO is invalid. 19. In case where the jurisdiction is transferred from AO who is ..." (source PDF page 13)

03 JUDICIAL DECISION

"In the result, appeal of the assessee is allowed." (source PDF page 15)

04 OUTCOME — IN FAVOUR OF

Assessee, for the issues disposed of in the quoted result. Check the full reasoning for whether relief is substantive or procedural, and verify subsequent proceedings before relying on it.

05 AKHB REVIEW POINT

Read the numbered grounds and operative reasoning together. Match the statutory provision, assessment year, jurisdiction and material facts before relying on this order; check later appeals, stays and amendments.

SOURCE & VERIFICATION

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AI DISCLOSURE

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