

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

**BEFORE SHRI SUDHIR KUMAR, JUDICIAL MEMBER &
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

**ITA No.2050/Del/2019
[Assessment Year : 2014-15]**

Mrs. Meena Swarup, 397, Mandakini Enclave, New Delhi-110019. PAN-AMRPS5792E	vs	DCIT, Circle-3(1)(2), Intl. Tax., New Delhi.
APPELLANT		RESPONDENT
Appellant by	Shri R.S.Ahuja, CA & Shri P.S.Sodhi, Adv.	
Respondent by	Shri Dheeraj Kumar Jain, Sr.DR	
Date of Hearing	01.07.2025	
Date of Pronouncement	19.09.2025	

ORDER

PER MANISH AGARWAL, AM :

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. 21.09.2015 by ITO, Ward-28(4), Delhi-4. Thereafter, when assessee

objected the jurisdiction of the AO who was conducting enquiries, case of assessee was transferred to DCIT, International Taxation, Circle-3(1)(2), New Delhi who based on the information that the assessee has claimed Long Term Capital Gain ("LTCG") of INR 2,47,91,254/- as bogus made the addition of the same by invoking the provision of section 68 of the Act.

3. In first appeal, Ld.CIT(A) confirmed the addition made by the AO thus, the assessee is in appeal before the Tribunal by taking following grounds of appeal:-

(A) *"That on the facts & circumstances of the case the learned AO and CIT (A)-43 while passing the order U/s 143(3) and U/s 250 respectively erred in:*

- i) *Invoking and confirming the provisions of Sec. 68 while ignoring that the assessee was neither required nor has maintained any Books of Accounts for the relevant Assessment Year.*
- ii) *Confirming addition of Rs.2,47,91,254/- under section 68 which was returned as Long Term Capital Gain u/s 10(38).*
- iii) *Wrongly treating capital gain on sale of long-term equity shares of a listed company as income from other sources though the shares were sold through recognized stock exchange which has been duly subjected to security transaction Tax.*
- iv) *Treating a transaction in ordinary course of investment of purchase and sale of share as accommodation entry.*
- v) *Assessee has been denied an impartial hearing based on the principle of natural justice by not being furnished statement of people on which Income Tax officer has relied in passing the judgement and also being denied the opportunity to cross examine them.*

(B) *The assessee craves leave to add, Alter or amend the grounds of appeal at or before the hearing."*

4. Before us, assessee has raised following additional grounds of appeal:-

1. *“That the captioned appeal has been filed impugning the Order of Ld. CIT (A) dated 14.12.2018 passed u/s 250 of the Income Tax Act, 1961.*

2. *That Ld. CIT (A) in its Order upheld the additions made u/s 68 of the Income Tax Act, 1961 by the Ld. DCIT Cir 3(1)(2), International Taxation dated 31.12.2016.*

3. *That on going through the case file, the AR of the Assessee has realized that in the present case, the 143(2) notice was issued by the AO ward 30(2), who admittedly was not having jurisdiction over the Assessee since the Assessee was an NRI, evident from her ITR for AY 2013-14, 2014-15 & 2015-16, and jurisdiction over the Assessee lies with International Taxation. Therefore, the notice issued by an officer who did not have jurisdiction over the Assessee is invalid, as held in various judgments.*

4. *It is a matter of record that the case file was transferred to the International Taxation only at the behest of the AR of the Assessee. However, the Ld. DCIT, Cir 3(1)(2), International Taxation did not issued a notice u/s 143(2), which is mandatory to assume jurisdiction for completing an Assessment.*

5. *It is a settled legal position that non-issuance of notice u/s 143(2) invalidates the complete assessment as void-ab-initio.*

6. *Also, the Ld. DCIT Cir 3(1)(2), International taxation, in page number 7 of the Assessment Order, proceeded on a completely incorrect fact, which also evidences the Non-application of mind and the justifies that the Assessment Order was passed on application of wrong facts.*

7. *Therefore, in view of the above factum, the Assessee craves for leave of the Hon'ble Tribunal to raise the following grounds, which are purely legal goes to the root of the matter:*

a. *That the Impugned Assessment Proceedings are void ab initio as the Notice u/s 143(2) of the Income Tax Act, 1961 was issued by the Assessing Officer who was having no jurisdiction, and the Assessing Officer to whom the file was transferred at the request of the AR of the Assessee did not assume jurisdiction by issuing a Notice u/s 143(2) as required under section 143 of the Income Tax Act. The Impugned Assessment may please be quashed on this ground alone.*

b. *That the Ld. A.O has proceeded on frivolous facts that a listed company was having a share capital of 2,40,000 shares only, and therefore, the Assessee was virtually a sole public share holder holding 50000 shares. The Ld. A.O based on this understanding only, proceeded to make the impugned addition. Ld. CIT (A) also*

failed to comment on this grave error in its whole Order. This tenaciously establish the Non-application of mind the lower authorities and the additions were made on complete wrong facts.”

5. Before us, Ld.AR for the assessee submits that the additional grounds taken are purely legal in nature and therefore, same deserves to be admitted.

6. After considering the arguments of both the parties and looking to the nature of the additional ground taken being purely legal we hereby admit the same for adjudication.

7. The Additional Ground No.1 is with respect to the validity of notice u/s 143(2) issued by the AO having no jurisdiction and the consequent assessment order passed by other AO without assuming jurisdiction by issue of notice u/s 143(2) of the Act.

8. Before us, Ld.AR submits that assessee filed her return of income with ITO, Ward, 22(4), New Delhi in terms of the acknowledgement dt. 31.07.2024 who was having territorial jurisdiction over the assessee. The notice for scrutiny u/s 143(2) was issued by ITO, Ward-28(4), Delhi which is evident from the report of the AO dated 24.04.2025 submitted before us wherein notice issued u/s 143(2) dated 21.09.2015 issued by ITO, Ward-28(4), Delhi is enclosed. In the said report, it is further observed that case of the assessee was transferred from ITO ward 30(2) Delhi to the DCIT, International Taxation 3(1)(2), New Delhi. Ld. AR further submits that assessee was a non-resident and this facts was duly disclosed in the return of income as well as accepted by the Department in the intimation order passed u/s 143(1) of the Act

and therefore, the correct jurisdiction over the assessee lies with DCIT, Circle-3(1)(2), International Taxation, New Delhi who completed the assessment. It is submitted by Ld.AR that notice u/s 143(2) was issued by ITO, Ward-28(4), New Delhi without having any jurisdiction in terms of section 120(1) or 120(2) of the Act as the territorial jurisdiction was with ITO, Ward-22(4), Delhi with whom return of income was filed. Since the assessee is non-resident therefore, the correct jurisdiction lies with DCIT, Circle-3(1)(2), International Taxation, New Delhi. Thus, the notice issued u/s 143(2) of the Act by ITO, Ward-28(4), Delhi is without jurisdiction and consequent assessment order passed by DCIT, Circle-3(1)(2), International Taxation, New Delhi without assuming jurisdiction by issue of notice u/s 143(2) is bad in law and therefore, same is liable to be quashed. He prayed accordingly.

9. Ld.AR also placed reliance on the judgement of Hon'ble Supreme Court in the case of **ACIT vs Hotel Blue Moon [2010] 321 ITR 362 (SC)** and the judgement of Hon'ble Calcutta High Court in the case of **PCIT vs Nopany & Sons [2022] 136 taxmann.com 414 (Calcutta)**. Ld.AR also filed detailed written submission on the additional grounds taken which is reproduced as under:-

A. *"The case of the assessee Meena Swarup, PAN: AMRPS5792E ("Assessee") was selected for scrutiny u/s 143(3) of Income Tax Act, 1961 ("IT Act, 1961") for the reason of selling 50,000 equity shares of M/s Parag Shilpa Investment Ltd ("Scrip") for Rs 2,52,91,230/- and claiming exemption of long-term capital gain of Rs 2,47,91,254/- u/s 10(38) of the IT Act, 1961.*

B. *At the outset it is submitted that the case was selected for scrutiny by ITO, Ward, 30(2), Delhi by issuing a notice u/s 143(2) dated 21.09.2015. However, he was not having jurisdiction over the Assessee as the Assessee was a non-resident, which is an admitted fact by the*

revenue authorities and is evident from her ITR and Intimation u/s 143(1) of the Income Tax Act, 1961 for Ay 2013-14 & Ay 2014-15.

C. It is a matter of fact that the DCIT, International Taxation Circle-3(1)(2) framed the Assessment Order without issuing necessary Notice u/s 143(2) of the Act to assume the jurisdiction. Proceedings initiated by ITO Ward 30(2) are void-ab-initio hence the Impugned Order passed without assuming the jurisdiction u/s 143(2) by DCIT International Taxation Circle-3(1)(2) is also liable to be quashed at the threshold for being sans jurisdiction.

SUBMISSIONS ON ADDITIONAL GROUNDS

That the Assessee vide a separate application seeks to raise following additional grounds:

1. That the Impugned Assessment proceedings are void ab initio as the Notice u/s 143(2) of the IT Act, 1961 was issued by the Assessing Officer who was not having jurisdiction and the Assessing Officer to whom the file was transferred at the request of the AR of the Assessee, did not assume jurisdiction by issuing a Notice u/s 143(2) as required under Section 143 of the Income Tax Act, 1961. The Impugned Assessment may please be quashed on this ground alone.
 - a. For the year under consideration, case was selected for scrutiny under CASS for complete scrutiny. Statutory notice u/s 143(2) of the IT Act, 1961 was issued on 21.09.2015 by Assessing Officer, Ward 30(2), who was admittedly not having the jurisdiction as the Assessee was a non-resident.
 - b. The Assessee brought to the notice of the A.O that it was not having the jurisdiction to complete the Assessment, same is evident from Para 11 of the Assessment Order. Relevant extract reproduced herein below:
The AR started attending the proceedings from as late as 08.11.2016 and then requested the AO of Ward-30(2) to transfer the case to International taxation wing claiming that the assessee was a non-resident.
 - c. Issuance of notice u/s 143(2) is a mandatory requirement for assuming jurisdiction and therefore this is not a valid assessment and needs to be quashed.
 - d. In the given case, to assume jurisdiction over Assessee, Ld. A.O. (International Taxation) was required to issue notice u/s 143(2) of the Act which was not done. It is submitted that this is a settled legal position that omission on the part of the assessing officer to issue notice u/s 143(2) cannot be a procedural irregularity and the

same is not curable and therefore issuance of notice u/s 143(2) is a statutory requirement before completing the Assessment.

e. Therefore, in the given case it can be concluded that initial requirement of issue of notice is not met by the authorities.

f. Reliance is placed on PCIT V. Nopany & Sons [2022] 136 taxmann.com 414 (Calcutta)

6. The short issue which falls for consideration is whether the assessing officer, who had jurisdiction over the assessee at the relevant time had issued notice under section 143(2) of the Act before taking up the scrutiny assessment under section 143(3). Before we go into the facts, we take note of the legal position as laid down by the Hon'ble Supreme Court in Asstt. CIT v. Hotel Blue Moon [2010] 188 Taxmann 113/321 ITR 362, wherein the Hon'ble Supreme Court held that omission on the part of the assessing officer to issue notice under section 143(2) cannot be a procedural irregularity and the same is not curable and, therefore, the requirement of notice under section 143(2) cannot be dispensed with. Further, we also take note of the decision in the case of CIT v. Gitsons Engineering Co. [2015] 53 taxmann.com 108/231. Taxman 506/370 ITR 87 (Mad.), wherein it was held that the word 'shall' employed in section 143(2) of the Act, contemplates that the assessing officer should issue notice to the assessee so as to ensure that the assessee has not understated income or has not computed excessive loss or has not under paid the tax in any manner. It was further held that when the assessing officer considers it necessary and expedient to ensure that tax is paid in accordance with law, he should call upon the assessee to produce evidence before him to ensure that the tax is paid in accordance with law. The section makes it clear that service of notice under section 143(2) of the Act within the time limit prescribed is mandatory and it is not a mere procedural requirement. At this juncture, it would be relevant to take note of the definition of assessing officer as defined in section 2(74) of the Act. The said provision defines 'assessing officer' to mean the Assistant Commissioner or Deputy Commissioner or Assistant Director or Deputy Director or the Income-tax Officer, who is vested with the relevant jurisdiction by virtue of directions or orders issued under sub-section (1) or sub-section (2) of section 120 or any other provision of the Act, and the Additional Commissioner or Additional Director or Joint Commissioner or Joint Director, who is directed under clause (b) of sub-section (4) of section 120 to exercise or perform all or any of the powers and functions conferred on, or assigned to, an assessing officer under this Act. In the instant case, the order of assessment was challenged on several grounds and, particularly, on the ground that no notice under section 143(2) of the Act was issued within the time prescribed by the assessing officer,

who had jurisdiction over the assessment file of the assessee at the relevant time. The Commissioner of Income-tax (Appeals)-XXXVII, Kolkata, (CIT(A)) did not agree with the contentions raised by the assessee that there is failure to comply with the mandatory statutory requirement. The CIT(A) opined that the assessing officer, who originally dealt with the e-return filed by the assessee had issued notice under section 143(2) of the Act. With regard to the merits of the matter, the CIT(A) held it in favour of the assessee. Therefore, the revenue was on appeal before the Tribunal and cross-objection was filed by the assessee questioning that portion of the order of the CIT(A) which held that there is no procedural irregularity committed by the assessing officer. The Tribunal considered the correctness of the finding of the CIT(A) and, on facts, found that both the assessing officers, namely, the assessing officer, who had jurisdiction over the assessee till 6-4-2009 and the assessing officer, who had jurisdiction post the said date had not issued notice under section 143(2) of the Act within the prescribed period of six months from the end of the financial year in which the return was filed. This factual position could not be controverted by the revenue before us. As pointed out by the Hon'ble Supreme Court in the case of Hotel Blue Moon (supra), non-issuance of notice under section 143(2) is not a procedural irregularity and, therefore, it is not curable. Thus, on facts, it having been established that no notice was issued under section 143(2) of the Act, the order passed by the Tribunal was perfectly legal and valid. The revenue also sought to rely upon section 292BB of the Act to justify their stand that notice is deemed to be valid and sought to bring the assessee's case under the circumstances mentioned in section 292BB. This question was considered by the Tribunal and it was pointed out that section 292BB provides that where an assessee has appeared in any proceedings or co-operated in any inquiry relating to an assessment or reassessment, it shall be deemed that any notice under any of the provision of the Act, which is required to be served upon him, has been duly served upon him in time in accordance with the provisions of the Act and such assessee shall be precluded from taking any objection in any proceeding or inquiry under the Act that the notice was not served upon him or not served upon him in time or served upon him in an improper manner. This amendment to the Act was introduced with effect from 1-4-2008 and the assessment year under consideration is AY 2007-08. In any event, the Tribunal examined as to whether at all the revenue can rely upon section 292BB of the Act and noted that the assessee has filed an objection vide letter dated 16-11-2009 objecting to the issuance of notice under section 142(1) of the Act without valid service of notice under section 143(2) of the Act. Taking note of the said letter the Tribunal, in our view, rightly held that the proviso to section 292BB would not stand attracted and the said section cannot be made applicable to the assessee's case. The Tribunal, thereafter, analysed as to the

correctness of the submission of the revenue seeking to sustain their stand by referring to a notice issued by the assessing officer, who at the relevant point had no jurisdiction over the assessee and, on facts, found that there is no valid compliance of section 143(2) of the Act as the notice issued under section 143(2) of the Act by the assessing officer/Income Tax Officer, Ward-3(1) had no jurisdiction over the assessee at the relevant time. The Tribunal to support its conclusion placed reliance in the case of CIT v. Mukesh Kumar Agrawal [2012] 25 taxmann.com 112/345 ITR 29 (Allahabad), wherein it was held that the assessing officer did not have jurisdiction to proceed further and make assessment since notice under section 143(2) of the Act was admittedly not issued. As in the case on hand, the revenue sought to take coverage under section 292BB of the Act which was rejected on the ground that the very foundation of the jurisdiction of the assessing officer was on the issuance of notice under section 143(2) of the Act and the same having been complied with, the revenue cannot take shelter under the provisions of section 292BB of the Act.

7. Thus, we are of the clear view that the Tribunal was right in rejecting the revenue's appeal. In the result, this appeal is dismissed and the substantial question of law is answered against the revenue.

g. Reliance is placed on Asstt. CIT v. Hotel Blue Moon (2010) 321 ITR 362 wherein the Hon'ble Supreme Court has held that that omission on the part of the assessing officer to issue notice under section 143(2) cannot be a procedural irregularity and the same is not curable and therefore issuance of notice u/s 143(2) is a statutory requirement before completing the Assessment.

h. It is also submitted that Hon'ble Allahabad High Court in the case of CIT v. M.I. Builders (P) Ltd [2012] 349 ITR 271 held that the notice issued by Non- jurisdictional Assessing Officer is invalid, no records can be transferred when the proceedings were invalid ab-initio, and such transfer cannot validate any proceedings taken in continuation thereof."

10. On the other hand, Ld. Sr. DR supports the order of lower authorities and submits that assessee has not challenged the jurisdiction within one month from the service of notice u/s 143(2) of the Act and therefore, in terms of provision of section 124(3) of the Act, notice issued by ITO, Ward-28(4), New Delhi [wrongly mentioned as ITO, Ward-30(2), New Delhi] in the report submitted

by AO dated 24.04.2025 cannot be challenged now after the expiry of one months period. Ld. Sr.DR placed reliance on the judgment of Hon'ble Jurisdictional Delhi High Court in the case of **Abhishek Jain vs ITO [2018] 94 taxmann.com 355 (Delhi)**.

11. Heard the contentions of both the parties and perused the material available on record. The sole issue raised in this ground of appeal for our consideration is whether the AO who issued notice u/s 143(2) of the Act, has the valid jurisdiction over the assessee as provided in section 120(1) or 120(2) of the Act and further the assessment order passed by AO without assuming the jurisdiction u/s 143(2) of the Act is valid or liable to be quashed?

12. From the perusal of notice issued u/s 143(2) as filed by the Revenue alongwith the report of AO dated 24.04.2025, it is seen that the same was issued by ITO, Ward-28(4), New Delhi. The said notice is reproduced as under:-

Notice under Section 143(2) of the Income - Tax Act, 1961
Office of the WARD 28(4), DELHI

PAN No : AMRPS5792E Dated : 21/09/2015

Selected Under Computer Assisted Scrutiny Selection(CASS)

To
SMT MEENA SWARUP
397
MANDAKINI ENCL
NEW DELHI
DELHI

Madam/Sir,

There are certain points in connection with the return of income submitted by you on 31st July 2014 for the assessment year 2014-15 on which I would like some further information.

2. You are hereby required to attend my office on 24th September 2015 at 11:30 AM either in person or by a representative duly authorised in writing in this behalf or produce or cause there to be produced at the said time any documents, accounts and any other evidence on which you may rely in support of the return filed by you.

Yours faithfully,
ASSESSING OFFICER

Name _____
Seal _____



Designation _____

R. Anantha Lakshmi
Ward-28 (4)
E-2 Block, Civic Centre
New Delhi

13. It is further seen that assessee filed her return of income on 31.07.2014 with ITO, Ward-22(4), New Delhi who was having territorial jurisdiction over the case of assessee. It is further seen that return of income for the immediately preceding year was filed with DDIT, Circle-2(2)2, International Taxation, New Delhi on 21.02.2014. The claim of assessee is that she is a non-resident and this fact was duly disclosed in the return of income filed and accepted by the Revenue in the order passed u/s 143(1) of the Act. Further from the perusal of para 2 of the order, AO observed that assessee is a non-resident. It is also seen that assessee during the course of assessment proceedings, objected the proceedings carried out by ITO ward 30(2) Delhi and stated that jurisdiction lies with AO, International Taxation. In the instant case, first notice u/s 142(1) alongwith query letter was issued by the ITO, Ward-30(2), New Delhi with whom details were filed by the assessee in terms of letter dated 08.11.2016 when the assessee has requested the AO for transfer of the case to the correct jurisdiction.

14. As observed above, there are 04 AOs in the case of the assessee, **First**, ITO, Ward-22(4), New Delhi with whom return was filed having territorial jurisdiction. **Second**, the ITO, Ward-28(4), New Delhi who issued notice u/s 143(2) of the Act; (it is not clear whether ITO, Ward-28(4), New Delhi is having any jurisdiction over the assessee or not); **Third**, the ITO, Ward-30(2), New Delhi from whose jurisdiction case of the assessee was transferred to DCIT, International Taxation, Circle-3(1)(2), New Delhi and **Fourth** the DCIT, International Taxation, Circle-3(1)(2), New Delhi who completed the assessment.

15. Section 124(3) of the Act referred by Ld. Sr.DR, relates to the case where territorial jurisdiction is challenged however, it not for the cases where the very subject matter of jurisdiction is challenged as has been done in the present case. Thus the provisions as contained in section 124(3) of the Act are not applicable to the facts of the present case, and as such assessee can challenge the very subject matter of the jurisdiction at any stage. Hon'ble Delhi High Court in the case of Abhishek Jain vs ITO (supra) in para 22 observed that **“..... As far as territorial jurisdiction or pecuniary jurisdiction are concerned, objection should be taken at the earliest possible opportunity and / or before the settlement of issues and not at the subsequent stage. Jurisdiction as to the subject matter is distinct and stand at a different footing.** Therefore, territorial jurisdiction cannot be equated with lack of subject matter of jurisdiction.

16. Further it is evident from the facts that AO who had completed the assessment i.e. DCIT, International Taxation, Circle-3(1)(2), New Delhi assumed the jurisdiction without issue of notice u/s 143(2) of the Act. In the instant case, as observed above, notice issued u/s 143(2) by ITO, Ward-28(4), New Delhi who even was not having territorial jurisdiction over the assessee and since the assessee is Non-resident, it is question of subject matter of jurisdiction and thus the ratio laid down by hon'ble Delhi high court in the case Abhishek Jain (supra) as relied by revenue is not applicable rather the observation of Hon'ble High Court in para 22, favors the case of the assessee. It is further seen that proceedings taken up by ITO,

Ward-30(2), New Delhi were without jurisdiction and subsequent transfer of case to DCIT, International Taxation, Circle-3(1)(2), New Delhi is subject matter of jurisdiction which is to be examined separately.

17. In view of these facts, 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 Allahabdd 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 not having jurisdiction over the assessee to the AO having jurisdiction, the same could be done through an order for transfer of jurisdiction u/s 127(2) of the Act which has not been done in the instant case. Transfer order is statutorily required to be passed by the prescribed authority u/s.127 of the Act, and an A.O cannot on his own transfer an income tax file to another officer.

20. Even otherwise, transfer of proceedings u/s. 127 of the Act cannot be retrospective so as to confer jurisdiction on a person who does not have it. Section 127 of the Act does not empower the authorities under the Act to confer jurisdiction on a person who does not have jurisdiction with retrospective effect. Section 127 does not validate notices or orders issued without jurisdiction, even if they are transferred to a new officer by an order u/s. 127. In the instant case, the DCIT, International Taxation, Circle 3(1)(2) assumed jurisdiction in terms of the notice issued u/s 143(2) on 21.9.2015 by ITO ward 28(4) who was not having any jurisdiction. The Co-ordinate Bench in the case of **Gaurav Singhal in ITA No.5786/Del/2018** held that *“without a valid assumption of jurisdictional u/s 127, the assessment order would be rendered illegal and invalid”*.

21. In view of the above facts, in our considered opinion, notice issued u/s 143(2) by ITO, Ward-28(4), New Delhi dated 21.09.2015 is without jurisdiction and consequent assessment order passed by DCIT, International Taxation, Circle-3(1)(2), New Delhi is hereby, quashed.

22. Since we have already allowed the legal ground taken by the assessee, the other grounds of appeal become academic hence, not adjudicated.

23. In the result, appeal of the assessee is allowed.

Order pronounced in the open Court on 19.09.2025.

Sd/-

(SUDHIR KUMAR)
JUDICIAL MEMBER

Sd/-

(MANISH AGARWAL)
ACCOUNTANT MEMBER

Date:- 19.09.2025

Amit Kumar, Sr.P.S

Copy forwarded to:

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

ASSISTANT REGISTRAR
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