ORDER OD-6

ITAT/294/2024
IA NO: GA/1/2024

IN THE HIGH COURT AT CALCUTTA
SPECIAL JURISDICTION (INCOME TAX)
ORIGINAL SIDE

PRINCIPAL COMMISSIONER OF INCOME TAX 5 KOLKATA
VS.
MANOJ JAIN

BEFORE:
THE HON'BLE JUSTICE RAJARSHI BHARADWAJ
AND
THE HON'BLE JUSTICE UDAY KUMAR
Date : 14th November, 2025.

*Appearance:*
*Mr. Prithu Dudhoria, Adv.*
*... for Appellant*

*Mr. Pranit Bag, Adv.*
*Mr. Balaram Patra, Adv.*
*Mr. Anuj Mishra, Adv.*
*Ms. Amani Kayan, Adv.*
*...for Respondent*

The Court: Learned Counsel appearing for the appellant submits that though the involvement of tax in the above matter is below the threshold limit of Rs. 2 crores but it falls within the exception clause as this matter relates to penny stock.

However, while perusing the order dated 11th July, 2024 passed by the learned Income Tax Appellate Tribunal (A) Bench, Kolkata, this Court finds that the Tribunal held:

> *4. In the appellate proceedings, the assessee challenged the reopening of assessment, however the same was held to be validly done by the AO.*

*5. The Ld. A.R. vehemently submitted before us that the reopening of assessment as made by the AO u/s 147 read with Section 148 of the Act is invalid on three counts namely:*

*i) Notice u/s 148 of the Act was issued by non-jurisdiction AO*

*ii) Notice u/s 148 dated 28.03.2017 was unsigned by referring to page no 202 which is the copy of said notice.*

*iii) That the reasons recorded by AO, Ward-35(4), Kolkata whereas the notice was issued by different AO.*

*5.1. The Ld. A.R drew our attention to the copy of objection dated 4.04.2017 filed by the assessee to the reopening of assessment wherein it was stated in page 1 that the name of official mentioned is Shri Subrata Kumar Gauri whereas the said notice is not digitally or manually signed. The ld AR contended that the service of valid notice is a pre-condition to assume jurisdiction by the AO. Further it was submitted in para B that Shri Subrata Kumar Gauri is not in charge of the instant ward-35(4) and Mr. Subrata Kumar Gauri is holding the additional charge, then how could he issue the notice u/s 148 dated 28.03.2017. The assessee stated that notice u/s 148 was issued by AO who did not have the jurisdiction and therefore entire reassessment proceedings were bad in law and consequent assessment framed is also invalid and non-est in the case of Prakash Krishnavatar Bhardwaj in W.P No. 9835 of 2022 dated 09.01.2023 wherein it has been held that notice issued u/s 148 has to be signed either digitally or manually failing which the notice issued is invalid. The Ld. A.R therefore prayed that in view of the aforesaid issues and defects in jurisdiction, the reopening may kindly be quashed.*

As the above issue where the notice is not signed by the concerned officer is a question of fact, we do not find any substantial question of law to be framed by this Court and thus, the appeal (ITAT 294 of 2024) is dismissed.

GA/1/2024 also stands disposed of.

(RAJARSHI BHARADWAJ, J.)

(UDAY KUMAR, J.)

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