

FIN-O-SCOPE

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Mumbai ITAT Quashes Reassessment Notice Under Section 148

Case Law: Susheel Kumar Govindram Saraff Vs. Income Tax Officer | Court: Income Tax Appellate Tribunal (ITAT), Mumbai | Appeal Number: I.T.A. No. 631/Mum/2023 | Date: February 28, 2025

The Mumbai ITAT, in a significant ruling, quashed a reassessment notice issued under Section 148 of the Income Tax Act, 1961, along with the consequential reassessment order. The tribunal held that the reassessment proceedings were invalid due to the failure of the Assessing Officer (AO) to record reasons before issuing the notice under Section 148.



Top Trends

- Reassessment Notice Quashed – ITAT ruled that the reassessment notice under Section 148 was invalid.
- Failure to Record Reasons – The Assessing Officer (AO) did not record reasons before issuing the notice, making it legally flawed.

Top Trends

- **Mandatory Requirement**
– Recording reasons before reopening an assessment is a necessary legal prerequisite.
- **Change in Assessing Officer** – The officer who completed the reassessment was different from the one who initiated it.
- **Time-Barred Notice** – The reassessment notice was issued beyond the six-year limitation period.
- **Jurisdiction Issue** – The procedural lapse of changing jurisdictional officers affected the validity of reassessment.
- **Reliance on Supreme Court Precedent** – The ruling cited Sri Krishna Pvt. Ltd., which mandates adherence to statutory safeguards.
- **Prima Facie Opinion Required** – AO must form a written opinion that income has escaped assessment before issuing notice.

Additionally, the ITAT noted that the officer who completed the reassessment was different from the one who initiated it, and the notice was time-barred as it was issued beyond the permissible limitation period. The ruling reinforces the importance of adhering to procedural safeguards while exercising powers under Section 147 and 148 of the Act.

Background of the Case

The case involved Susheel Kumar Govindram Saraff, the assessee, who challenged the validity of a reassessment notice issued under Section 148. The Revenue had initiated reassessment proceedings, alleging that income had escaped assessment. However, the assessee contended that the notice was invalid as the AO failed to record reasons before issuing it, a mandatory requirement under the law.

Key Issues Before the ITAT

- **Failure to Record Reasons:** The ITAT emphasized that recording reasons before issuing a notice under Section 148 is a prerequisite for assuming jurisdiction under Section 147. The AO failed to record any reasons, which rendered the notice invalid.
- **Change in Jurisdictional Officers:** The officer who completed the reassessment was different from the one who initiated it. This procedural irregularity further vitiated the reassessment proceedings.
- **Time-Barred Notice:** The reasons for reopening the assessment were recorded after March 31, 2021, which was beyond the six-year limitation period prescribed under the Act. Consequently, the notice was time-barred.

ITAT's Observations and Ruling

The ITAT relied on the Supreme Court's decision in Sri Krishna Pvt. Ltd., which held that the power to reopen assessments under Section 147 is not unbridled and must be exercised within the framework of statutory safeguards. The tribunal observed:

- Recording reasons is mandatory, even if no return has been filed by the assessee.
- The AO must form a prima facie opinion that income has escaped assessment and record this in writing before issuing a notice under Section 148.
- The reassessment proceedings were flawed as the officer who completed the assessment was not the same as the one who initiated it.
- The notice was time-barred, as the reasons were recorded beyond the permissible six-year period.

The ITAT rejected the Revenue's contention that recording reasons was unnecessary since the assessee had not filed a return. It held that the failure to record reasons invalidated the notice and the subsequent reassessment order.

Conclusion

The Mumbai ITAT's ruling in *Susheel Kumar Govindram Saraff Vs. Income Tax Officer* underscores the importance of adhering to procedural requirements while initiating reassessment proceedings. The tribunal quashed the notice under Section 148 and the consequential reassessment order, holding that the AO failed to record reasons, the notice was time-barred, and there was a change in jurisdictional officers. This decision reaffirms the principle that the power to reopen assessments must be exercised judiciously and within the bounds of the law, ensuring fairness and transparency in tax administration.

Judges:

- Smt. Beena Pillai, Judicial Member
- Smt. Renu Jauhri, Accountant Member

Counsel for the Assessee: Ms. Rutuja Pawar and Ms. Saiyami Shah

Counsel for the Revenue: Mr. Krishna Kumar, Sr. DR

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Top Trends

- **Legal Compliance**
Emphasized – ITAT stressed that reassessments must comply with both procedural and substantive law.
- **Fairness in Tax Administration** – The decision promotes transparency and fairness in tax assessments.
- **Quashing of Consequential Order** – Since the reassessment notice was invalid, the entire reassessment order was also nullified.
- **Judges Involved** – The case was presided over by Smt. Beena Pillai and Smt. Renu Jauhri.
- **Representing Counsel** – Assessee was represented by Ms. Rutuja Pawar and Ms. Saiyami Shah; Revenue by Mr. Krishna Kumar.
- **AO's Power Not Absolute** – The case reaffirmed that AO's power to reopen assessments is not unlimited.