

आयकर अपीलीय अधिकरण न्यायपीठ “एक-सदस्य” मामला रायपुर में

**IN THE INCOME TAX APPELLATE TRIBUNAL  
RAIPUR BENCH “SMC”, RAIPUR**

**श्री रवीश सूद, न्यायिक सदस्य के समक्ष  
BEFORE SHRI RAVISH SOOD, JUDICIAL MEMBER**

**आयकर अपील सं./ ITA No. 17/RPR/2017**

**निर्धारण वर्ष / Assessment Year : 2012-13**

M/s. Goyal Construction Company  
Shop No.213-214, II Floor,  
Crystal Arcade, Lodhipara Chowk,  
Raipur (C.G.)  
PAN : AAFFG9964N

.....अपीलार्थी / Appellant

**बनाम / V/s.**

The Income Tax Officer-3(1),  
Raipur (C.G.).

.....प्रत्यर्थी / Respondent

Assessee by : Shri Sunil Kumar Agrawal &  
Smt. Laxmi Sharma, CAs

Revenue by : Shri Piyush Tripathi, Sr. DR

सुनवाई की तारीख / Date of Hearing : 24.01.2023

घोषणा की तारीख / Date of Pronouncement : 24.01.2023

**आदेश / ORDER****PER RAVISH SOOD, JM**

The present appeal filed by the assessee is directed against the order passed by the CIT(Appeals)-I, Raipur, dated 15.12.2016, which in turn arises from the order passed by the A.O under Sec. 143(3) of the Income-tax Act, 1961 (in short 'the Act') dated 30.03.2015 for assessment year 2012-13. The assessee has assailed the impugned order on the following grounds of appeal:

“1. That the Ld. CIT(A) has erred in not deleting a random disallowance of Rs.1,75,000/- out of raw material expenses, which is highly arbitrary, unwarranted and unjustified on the facts and in the circumstances of the case.

2. That the Ld. CIT(A) has erred in not deleting the disallowance of Rs.30,000/- out of wages & garden expenses, which is highly arbitrary, unwarranted and unjustified on the facts and in the circumstances of the case.

3. That the Ld. CIT(A) has erred in not deleting the disallowance of Rs.50,000/- out of Gift expenses, which is highly arbitrary, unwarranted and unjustified on the facts and in the circumstances of the case

4. That the Ld. CIT(A) has erred in not deleting the addition of Rs.21,97,992/- u/s.80IB(10) Deduction, which is highly arbitrary, unwarranted and unjustified on the facts and in the circumstances of the case .

5. The appellant reserves the right to add, amend or alter any ground or grounds of appeal .

Also the assessee has raised an additional ground of appeal which reads as under:

“1. On the facts and circumstances of the case and in law, since no notice u/s.143(2) has been issued by the jurisdictional A.O; assessment order passed u/s.143(3) dt.30.03.15 in absence of a valid notice issued u/s.143(2) would be invalid, bad in law & non-est and is liable to be quashed.”

2. As the assessee by raising the aforesaid additional ground of appeal has assailed the validity of jurisdiction that was assumed by the A.O on the basis of notice issued u/s.143(2) of the Act dated 19.08.2013 by the ITO, Ward-1(3), Raipur, which involves purely a question of law that would require looking no further beyond the facts available on record, therefore, I have no hesitation in admitting the same. My aforesaid view that where an assessee has raised, though for the first time, an additional ground of appeal before the Tribunal, which involves purely a question of law that would require no further verification of facts, then, the same merits admission finds support from the judgment of the Hon'ble Supreme Court in the case of National Thermal Power Company Ltd. Vs. CIT (1998) 229 ITR 383 (SC).

3. Succinctly stated, the assessee firm which is engaged in the business of construction of a residential complex had e-filed its return of income for A.Y.2012-13 on 28.09.2012, declaring an income of Rs.3,25,760/-. Subsequently, the case of the assessee firm was selected for scrutiny assessment u/s.143(2) of the Act. Notice u/s.

143(2) of the Act dated 19.08.2013 was issued to the assessee by the ITO, Ward-1(3), Raipur, Page 35 of APB. Case of the assessee as is discernible from the assessment order was thereafter transferred on 05.12.2014 to ITO, Ward-3(1), Raipur. Notice(s) u/ss.143(2)/142(1), dated 09.01.2015 were issued by the ITO, Ward-3(1), Raipur, Page 41-42 of APB. Assessment was, thereafter, framed by the A.O i.e. ITO, Ward-3(1), Raipur vide his order passed u/s.143(3) of the Act dated 30.03.2015, wherein the income of the assessee firm was determined at Rs.28,38,750/- after making certain disallowances, viz. (i) disallowance out of the assessee's claim of wages and garden expenses :Rs.30,000/-; (ii) disallowance of the assessee's claim of expenditure incurred towards gifts given to customers : Rs.1,10,000/-; and (iii) disallowance of the assessee's claim for deduction u/s.80IB(10) of the Act : Rs.21,97,992/-.

4. Aggrieved, the assessee carried the matter in appeal before the CIT(Appeals), who though scaled down the disallowance of gifts/office expenses made by the A.O at Rs.1,10,000/- to an amount of Rs.50,000/- but sustained the balance disallowances.

5. The assessee being aggrieved with the order of the CIT(Appeals) has carried the matter in appeal before me.

6. As the assessee has assailed the validity of jurisdiction that was assumed by the A.O, i.e., ITO, Ward-3(1), Raipur for framing the assessment vide his order passed u/s.143(3) dated 30.03.2015, therefore, I shall first deal with the same.

7. It is the claim of the Ld. Authorized Representative (for short 'AR') for the assessee that as the jurisdiction over the case of the assessee firm which had its office at, viz. "A-2, *Krishna Apartment, Baloda Bazar Road, Mowa, Raipur-492 001*" was at the time of issuance of notice u/s.143(2) of the Act dated 19.08.2013 vested with the ITO, Ward-2(3), Raipur, therefore, in absence of any notice u/s.143(2) having been issued by the said jurisdictional A.O, no valid assessment u/s.143(3) in its case could have been framed by the ITO, Ward-3(1), Raipur. On being queried by the Bench about the notice u/s.143(2) dated 19.08.2013 issued by the ITO, Ward-1(3), Raipur on 19.08.2013, it was submitted by the Ld. AR that as the said officer at the relevant point of time had no jurisdiction over the case of the assessee, therefore, no valid assessment could have been framed on the basis of the same. Elaborating further on his aforesaid contention, it was submitted by the Ld. AR that the territorial jurisdiction over its case at the relevant period of time was vested with the ITO, Ward-2(3), Raipur, which pursuant to a subsequent restructuring that was carried out by the Jt. Commissioner of Income

Tax, Range-3, Raipur vide Notification No.1 of 2014-15 dated 15.11.2014 was transferred to ITO, Ward-3(1), Raipur, Page 72 of APB. It was averred by the Ld. AR that though the A.O who had framed the assessment i.e. ITO, Ward-3(1), Raipur pursuant to the restructuring carried out by the Jt. Commissioner of Income Tax, Range-3, Raipur vide Notification No.1 of 2014-15 dated 15.11.2014 was at the time of passing of the assessment order vested with territorial jurisdiction over the assessee, but the A.O who had issued notice u/s.143(2) dated 19.08.2013 i.e. ITO, Ward-1(3), Raipur was not seized of any such jurisdiction over the assessee at the time of issuing the impugned notice. In sum and substance, it was the claim of the Ld. AR that though the assessment in the case of the assessee u/s.143(3) dated 30.03.2015 had been framed by the A.O having jurisdiction over its case i.e. ITO, Ward-3(1), Raipur but in absence of any notice u/s.143(2) of the Act having been issued by the ITO, Ward-2(3), Raipur i.e. the A.O who had jurisdiction over its case at the relevant point of time rendered the assessment order so passed as invalid and void-ab-initio for want of valid assumption of jurisdiction. In order to support his aforesaid contention the Ld. AR took me through the copies of return of income of the assessee firm for the year under consideration i.e. A.Y.2012-13, Page 7 of APB and also its PAN profile, Page 78 of APB. My attention was also drawn by

the Ld. AR to the fact that return of income was filed by the assessee firm with the address : “A-2, Krishna Apartment, Baloda Bazar Road, Mowa, Raipur-492 001”. Also the Ld. AR took me through the PAN profile of the assessee firm, Page-78 of APB, which, reads as under:

	As per profile	As per PAN
Name	Goyal Construction Company	Goyal Construction Company
Date of Birth /incorporation /formation	01-Nov-2001	01-Nov-2001
Address for communication	<b>213-214, B Block Crystal Arcade, Rajiv Nagar, Raipur, RAIPUR Kutchery, S.O. 492 001, Chhattisgarh, INDIA</b>	<b>D-2, SHIVCOMPLEX, KAPA MOWA, Raipur-492 001, Chhattisgarh</b>

It was averred by the Ld. AR that as the address of the assessee firm mentioned in PAN and that address provided in the return of income, viz. (i) D-2, Shivcomplex, Kapa Mowa, Raipur-492 001, Chhattisgarh (as provided in PAN); and (ii) A-2, Krishna Apartment, Baloda Bazar Road, Mowa, Raipur-492 001 (as provided in the return of income), both were within the municipal jurisdiction of Ward-27, Raipur, therefore, the territorial jurisdiction over its case at the time of issuance of notice u/s.143(2) of the Act, dated 19.08.2013/during the prescribed period within which notice u/s.143(2) could have validly been issued by the A.O upto 30.09.2013, i.e., prior to the

restructuring/reshuffling of the jurisdiction vide Notification No.1 of 2014-15, dated 15.11.2014 was vested with the ITO, Ward-2(3), Raipur, Page 64-65 of APB. In order to buttress his claim that office of the assessee as per municipal records was within the jurisdiction of “*Ward-27, Raipur*”, the assessee had placed on record three receipts of the municipal corporation, Raipur dated 04.10.2012, 01.03.2013 & 07.10.2014, wherein the said property was stated to be situated within the municipal jurisdiction of “*Dr. Bhimrao Ambedkar Ward-27*”, Page 1 to 3 (of the documents that were filed by him to support his aforesaid claim pursuant to the direction of the Tribunal). Also, the Ld. AR has filed a copy of a sale deed, dated 13.12.2012 wherein it was stated that the address of the assessee firm, viz. “*A-2, Krishna Apartment, Baloda Bazar Road, Mowa, Raipur-492 001*” was situated within the municipal jurisdiction of “*Ward-27, Dr. Bhimrao Ambedkar Ward*” Page 4-5 (of the documents that were filed pursuant to the direction of the Tribunal).

8. Apart from that, the assessee in order to dispel all doubts as regards his aforesaid claim has filed an “affidavit” dated 18.01.2023 of Shri Suresh Kumar Goyal, partner of the assessee firm, wherein he had deposed that the aforesaid address of the assessee firm, viz. “*A-2, Krishna Apartment, Baloda Bazar Road, Mowa, Raipur-492 001*” was situated within the municipal jurisdiction of Ward-27, Dr. Bhimrao

Ambedkar. On the basis of the aforesaid material placed on record, it was submitted by the Ld. AR that as the assessee firm was situated within the municipal jurisdiction of Ward-27, Raipur, therefore, prior to restructuring that was carried out pursuant to the Notification No.1 of 2014-15, dated 15.11.2014 issued by the Jt. Commissioner of Income Tax, Range-3, Raipur, the territorial jurisdiction over it's case was vested with the ITO, Ward-2(3), Raipur.

9. On being specifically queried by the Bench that the respective addresses provided in the PAN profile fell within the jurisdiction of which A.O, it was submitted by the Ld. AR that the territorial jurisdiction over the address, viz. "*D-2, Shivcomplex, Kapa Mowa,, Raipur-492 001, Chhattisgarh*" at the relevant point of time remained with the ITO, Ward-2(3), Raipur, while for the other address provided in the profile, viz. "*213-214, B Block Crystal Arcade, Rajiv Nagar, Raipur, RAIPUR Kutchery, S.O. 492 001, Chhattisgarh*", the jurisdiction at the relevant point of time remained with the ITO, Ward-1(2), Raipur. Backed by the aforesaid facts, it was submitted by the Ld. AR that the jurisdiction as per the addresses provided in the PAN would be of no assistance to the department to justify/validate the notice u/s.143(2), dated 19.08.2013 issued by the ITO, Ward-1(3), Raipur. Elaborating on his aforesaid contention, it was submitted by the Ld. AR that as it was not the case of the department

that any notice u/s.143(2) was ever issued within the prescribed time period i.e. upto 30.09.2013 either by the ITO, Ward-1(2), Raipur or ITO, Ward-2(3), Raipur, therefore, no support could be drawn from the respective addresses as were available in the PAN of the assessee firm. In sum and substance, it was the claim of the Ld. AR that as no notice u/s.143(2) had been issued within the prescribed time period by the jurisdictional A.O, i.e., ITO, Ward-2(3), Raipur, therefore, the assessment order passed u/s.143(3) dated 30.03.2015 would stand vitiated on the said count itself for want of valid assumption of jurisdiction by the A.O who had framed the assessment i.e. ITO, Ward-3(1), Raipur.

10. Per contra, the Ld. Departmental Representative (for short 'DR') relied on the orders of the lower authorities. It was submitted by the Ld. DR that as the territorial jurisdiction over the case of the assessee at the relevant point of time i.e. on 19.08.2013/during the period prescribed for issuance of notice u/s.143(2) of the Act for the year under consideration i.e. A.Y.2012-13, was vested with the ITO, Ward-1(3), Raipur, therefore, no infirmity could be related to the assessment order passed u/s.143(3) of the Act dated 30.03.2015 by the ITO, Ward-3(1), Raipur. It was submitted by the Ld. DR that pursuant to the territorial reshuffling/restructuring of the jurisdiction of the AOs vide Notification No.1 of 2014-15, dated

15.11.2014 by the Jt. Commissioner of Income Tax, Range-3, Raipur, the ITO, Ward-3(1), Raipur was vested with the territorial jurisdiction over the case of the assessee firm. The Ld. DR in order to buttress his aforesaid claim had drawn my attention to the jurisdiction that was at the relevant point of time vested with ITO, Ward-1(3), Raipur i.e. as per Notification No.1/2011-12 dated 31.05.2011, Page 61 of APB. Adverting to the territorial jurisdiction of the ITO, Ward-1(3), Raipur, it was submitted by the Ld. DR that the said officer was, inter alia, vested with the jurisdiction over the assessee's situated beyond the municipal limits of Raipur. Elaborating on his aforesaid contention, it was submitted by the Ld. DR that as the address provided by the assessee in its return of income/PAN profile i.e. Baloda Bazar Road, Mowa/KAPA Mowa, Raipur was at the time of issuance of notice u/s.143(2), dated 19.08.2013 situated beyond the municipal limits of Raipur, therefore, as per the Notification No.1 of 2011-12, dated 31.05.2011, Page 61 of APB, the jurisdiction over its case was vested with the ITO, Ward-1(3), Raipur. However, the Ld. DR on being confronted with the fact that the office of the assessee as per the municipal receipts, copy of sale deed and affidavit that were filed pursuant to the direction of the Tribunal was situated within the jurisdiction of "*Dr. Bhimrao Ambedkar, Ward-2, Raipur*", failed to rebut the same. Also, the ld. DR on being confronted with the fact that now

when the documents/affidavit filed by the assessee revealed that his office was situated within the municipal jurisdiction of "Ward-27, Raipur", then on what basis it was being claimed by him to the contrary that the same at the relevant point of time was situated beyond the municipal limits, and thus, fell within the territorial jurisdiction of ITO, Ward-1(3), Raipur, failed to come forth with any reply. It was, however, submitted by the Ld. DR that as the jurisdiction over the case of the assessee during the year under consideration i.e. A.Y.2012-13 would require verification of facts, therefore, the matter in all fairness may be restored to the file of the A.O for the said limited purpose.

11. Controverting the aforesaid, it was submitted by Ld. AR that now when on the basis of supporting documentary evidence, viz. municipal receipts dated 04.10.2012, 01.03/2013 and 07.10.2014, copy of sale deed and affidavit of the partner of the assessee firm, it was established beyond doubt that the office of the assessee firm was situated in "Ward-27, Raipur", therefore, it was proved to the hilt that the territorial jurisdiction over its case at the time of issuance of notice u/s.143(2), dated 19.08.2013 as per Notification No.1 of 2011-12, dated 31.05.2011 issued by the Jt. Commissioner of Income Tax, Range-II, Raipur, which did hold the ground during the relevant period was vested with the ITO, Ward-2(3), Raipur. It was submitted

by the Id. AR that a bald assertion raised by the department that the jurisdiction over the assessee's case at the relevant point of time was vested with the ITO, Ward-1(3) had no legs to stand upon. Elaborating further, it was submitted by the Ld. AR that the very fact that as per the municipal receipts, Page 1 to 3 (filed by the assessee as per direction of the Tribunal), the property from where the assessee firm was carrying on its business during the period 04.10.2012 to 07.10.2014 was being subjected to levy of municipal taxes in itself proved to the hilt that the same was situated well within the municipal limits of Raipur. It was submitted by the Ld. AR that now when the documentary evidences placed on record irrefutably evidenced that the assessee was situated within the municipal limits of Raipur, therefore, the claim of the Ld. DR that the territorial jurisdiction over it's case at the relevant point of time i.e. as per Notification No.1 of 2011-12, dated 31.05.2011 that was issued by the Jt. Commissioner of Income Tax, Range-1, Raipur i.e. prior to a subsequent reshuffling/restructuring carried out on 15.11.2014, was vested with the ITO, Ward-1(3), Raipur, allegedly for the reason that the office of the assessee firm was situated in an area falling beyond the municipal limits of Raipur was to the hilt proved to be absolutely wrong and frivolous.

12. It was, thus, submitted by the Ld. AR that as the impugned order u/s.143(3) dated 30.03.2015 had been passed by the ITO, Ward-3(1), Raipur *de-hors* any valid notice u/s.143(2) having been issued within the prescribed time limit by the then jurisdictional A.O, i.e. ITO, Ward-2(3), Raipur, therefore, the assessment so framed could not be sustained for want of valid assumption of jurisdiction by the A.O framing the assessment, i.e. ITO, Ward-3(1), Raipur. Also, it was submitted by the Ld. AR that as the ITO, Ward-1(3), Raipur had no jurisdiction over the case of the assessee at the relevant point of time, therefore, notice u/s.143(2) dated 19.08.2013 so issued by him was *non-est* and no valid assessment could have been framed on the basis of the same. Reliance in support of his aforesaid contention was placed by the Ld. AR on the judgments of the Hon'ble High Court of Calcutta in the case of the **Pr. Commissioner of Income Tax Vs. Nopany & Sons (2022) 136 taxmann.com 414 (Cal.)** and that of the Hon'ble High Court of Delhi in the case of **Sunworld Infrastructure (P). Ltd. Vs. ITO, Ward-24(3), New Delhi, (2015) 64 taxmann.com 471 (Delhi)**. Also support was drawn by the Ld. AR from the orders of the ITAT, Raipur in the case of **Adarsh Rice Mill Vs. Income Tax Officer, ITA No.84/RPR/2022 dated 29.11.2022** and that in the case of **Dr. Hari Singh Chandel Vs. Income Tax Officer, ITA No.287/RPR/2016 dated 17.10.2022**. It was submitted by the Ld.

AR that in the aforesaid judicial pronouncements, it was observed that where pursuant to the transfer of the assessee's case, an assessment was framed by the A.O having jurisdiction without issuing any notice u/s.143(2) of the Act, but on the basis of a notice issued by the ITO who had no jurisdiction over the case of the assessee at the relevant point of time, then, the impugned assessment order so passed would be null and void.

13. I have heard the ld. authorized representatives of both the parties, perused the orders of the lower authorities and the material available on record, as well as considered the judicial pronouncements that have been pressed into service by them to drive home their respective contentions.

14. I have given a thoughtful consideration to the issue in hand in the backdrop of the contentions advanced by the ld. authorized representatives of both the parties. On the first principle canvassed by the Ld. AR, I am in agreement with his contention that an assessment order passed u/s.143(3) of the Act without issuance of a valid notice u/s.143(2) would be bad in law. The aforesaid view that an order passed u/s.143(3) of the Act presupposes issuance of a valid notice u/s.143(2) of the Act finds support from the judgments of the Hon'ble Supreme Court in the case of **ACIT & Anr. Vs. Hotel Blue**

**Moon [2010] 321 ITR 362 (SC) and CIT v. Laxman Das Khandelwal (2019) 417 ITR 325 (SC).**

15. Apropos the multi-facet contentions advanced by the ld. authorized representatives of both the parties as regards the issue in hand i.e., validity of an assessment order passed u/s.143(3) of the Act by an A.O having jurisdiction over the assessee at the time of passing of assessment order on the basis of a notice issued u/s.143(2) by an officer who at the time of issuance of the said notice was not vested with any jurisdiction over the assessee, I may herein observe that the same had been deliberated at length by a division bench of the ITAT, Raipur in the case of **Dr. Hari Singh Chandel Vs. Income Tax Officer, ITA No.287/RPR/2016, dated 17.10.2022**, wherein on the basis of exhaustive deliberations and drawing support from a host of judicial pronouncements it was observed by the Tribunal as under:

“18. Controversy involved in the present appeal boils down to the solitary issue, i.e., as to whether or not the assessment order passed u/s.143(3), dated 12.03.2014, in the absence of any notice u/s. 143(2) having been issued within the prescribed time period of six months from the end of the relevant assessment year i.e upto 30.09.2012 by an Assessing Officer vested with jurisdiction over the assessee’s case is sustainable in the eyes of law?. Corollary that flows from the aforesaid issue is as to whether or not the assessment framed by the A.O exercising jurisdiction over the case of the assessee i.e. Income-Tax Officer, Ward-2(2), Bilaspur vide order passed u/s.143(3), dated 12.03.2014 on the basis of a notice issued by him u/s 143(2), dated 07.01.2014 that was preceded by a

notice u/s 143(2) issued within the stipulated time period by the Income-Tax Officer, Ward-2(2) can be sustained in the eyes of law.?

19. Answer to the aforesaid issues can safely be gathered on a bare perusal of sub-section (2) of Section 143 of the Act, which obligates the Assessing Officer to serve on the assessee a notice requiring him on a date to be specified therein, either to attend the office of the A.O or to produce or cause to be produced before him any evidence on which he may rely in support of his return. As the aforesaid obligation is cast upon an "Assessing Officer", who under Sec. 2(7A) of the Act takes within its sweep only those specified authorities who were either vested with relevant jurisdiction over the case of the assessee under sub-section (1) or sub-section (2) of Section 120 or any other provision of the Act; or any such authority who was 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 the Act, therefore, as the Income-Tax Officer, Ward-1(2), Jabalpur could not by any means be held to be the "Assessing Officer" of the assessee as per Section 2(7A) of the Act, therefore, no assessment u/s.143(3) could have been validly framed on the basis of the notice issued by him u/s.143(2) of the Act, dated 01.08.2012. Our aforesaid view that where an assessment order is passed by an AO under section 143(3) only in pursuance to a notice issued under section 143(2) by an assessing officer who had no jurisdiction over the assessee at the relevant time, then, the impugned assessment order would be null and void is supported by a recent judgment of the Hon'ble High Court of Calcutta in the case of Pr. CIT Vs. Nopany & Sons (2022) 286 Taxman 388(Cal). Facts before the Hon'ble High Court were that the case of the assessee was transferred from ITO, Ward-3 to ITO, Ward-4. Assessment order was thereafter passed by the ITO, Ward-4 only in pursuance of notice issued by ITO, Ward-3, who had no jurisdiction over the assessee at the relevant time. On appeal, the Hon'ble High Court approved the view taken by the Tribunal and held the impugned assessment order as null and void.

20. Apropos the contention of the department that now when the assessee as per the mandate of sub-section (3) of Section 124 had not called in question the jurisdiction of the A.O within the stipulated time period of one month from the date of issuance of notice u/s.143(2), dated 01.08.2012 by the Income-Tax Officer, Ward-1(2), Jabalpur, therefore, he could

not have assailed the same for the very first time in the course of the present proceedings, in our considered view does not merit acceptance. As stated by the Ld. AR and, rightly so, as the notice u/s.143(2), dated 01.08.2012 issued by the Income-Tax Officer, Ward-1(2), Jabalpur was not a notice issued by an authority falling within the meaning of "Assessing Officer" i.e. either of the authorities contemplated in Section 2(7A) of the Act, viz. such authority who was vested with the relevant jurisdiction by virtue of any directions or orders issued under sub-section (1) or sub-section (2) of Section 120 of the Act or any other provision of the Act; or any such authority who was 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 the Act; therefore, no obligation was cast upon the assessee to call in question his jurisdiction on receipt of notice u/s. 143(2), dated 01.08.2012 from him. Our aforesaid conviction that where an assessee is in receipt of notice from an officer who was not vested with the jurisdiction over the case of the assessee either u/s. 124(1) or u/s.127 or by notification or circular or instruction of CBDT, then, no obligation would be cast upon the assessee to call in question his jurisdiction as per the mandate of sub-section (3) of Section 124 of the Act is supported by the judgment of the Hon'ble High Court of Allahabad in the case of V.P Electronics Corporation Ltd., ITA No.79 of 2015 dated 01.03.2017. In its aforesaid order the Hon'ble High Court after referring to the provisions of Sections. 124(3) of the Act, had held, that when the notice was not issued by the competent authority, i.e, an Assessing Officer having jurisdiction then the assessment so framed would be nullity. Also a similar view had been taken by the co-ordinate benches of the Tribunal, i.e, ITAT, Gauhati in the case of Balaji Enterprise Vs. ACIT (2021) 187 ITD 111 (Gau.) and the ITAT, Kolkata Bench in the case of OSL Developers (P) Ltd. Vs. ITO, (2021) 211 TTJ (Kol) 621. We further find that a similar view had also been taken by the Hon'ble High Court of Gujarat in the case of CIT Vs. Ramesh D Patel (2014) 362 ITR 492 (Guj.). It was observed by the Hon'ble High Court that the provisions of sub-section (3) of Section 124 pertains to the dispute of the assessee with respect to the territorial jurisdiction of the A.O and have no relevance in so far the inherent jurisdiction is concerned.

21. Accordingly, on the basis of our aforesaid observations, we are of the considered view that as the Income-Tax Officer, Ward-1(2), Jabalpur was not having jurisdiction over the case of the assessee, and thus, did not fall within the meaning of

“Assessing Officer” as defined in Section 2(7A) of the Act, therefore, no obligation was cast upon the assessee to have called in question the assumption of jurisdiction by him to issue notice u/s 143(2), dated 01.08.2012 to the assessee. Also, as it is not the case of the department that the Income-Tax Officer, Ward-1(2), Jabalpur who had issued notice to the assessee u/s.143(2), dated 01.08.2012 was exercising concurrent jurisdiction over his case under sub-section (5) of Section 120 of the Act, therefore, as claimed by the Ld. AR and, rightly so, the invalidity/illegality of the notice issued by the Income-Tax Officer, Ward-1(2), Jabalpur would also not be saved on the said count.

22. Also, we find substance in the claim of the Ld. AR that as it is neither the case of the department nor a fact borne from record that the Income-Tax Officer, Ward-1(2), Jabalpur had got vested with the jurisdiction over the case of the assessee pursuant to any transfer of jurisdiction over his case from the Income-Tax Officer, Ward-2(2), Bilaspur u/s.127 of the Act, therefore, the assumption of jurisdiction by him would also not be justified on the said count. Admittedly, no order u/s.127 of the Act evidencing any transfer of the case of the assessee from the Income-Tax Officer, Ward-2(2), Bilaspur i.e. the jurisdictional Officer to the Income-Tax Officer, Ward-1(2), Jabalpur is available on the assessment record. On the contrary, as observed by us hereinabove, though the jurisdictional history of the assessee reveals that his case on 27.09.2013 was transferred from the Income-Tax Officer, Ward-1(2), Jabalpur to the Income-Tax Officer, Ward-2(2), Bilaspur, but as to on what basis the jurisdiction over his case which since last many years had remained vested with the Income Tax Officer, Ward-2(2), Bilaspur (as evidenced on a perusal of the income tax returns of the preceding years) on the first occasion was transferred to the Income-Tax Officer, Ward-1(2), Jabalpur remains an unresolved mystery till date.

23. On a specific query by the bench as to on what basis the jurisdiction over the case of the assessee was vested with the Income-Tax Officer, Ward-1(2), Jabalpur, the Ld. DR could not give any plausible answer. Only contention of the Ld. DR was that the case of the assessee was allocated to the Income-Tax Officer, Ward-1(2), Jabalpur on the basis of PAN jurisdiction. However, as the statute does not recognize any PAN jurisdiction for the reason that the specific jurisdictions as stands vested with an assessing officer, viz. (i) territorial jurisdiction; (ii) persons or classes of persons jurisdiction; (iii) jurisdiction on the basis of income/classes of income i.e.

pecuniary jurisdiction; and (iv) jurisdiction as per cases or classes of cases, are clearly spelt out in sub-section (3) of Section 120 of the Act, therefore, we are not inclined to accept the aforesaid claim of the department. We, thus, in terms of our aforesaid observations are unable to concur with the Ld. DR that the Income-Tax Officer, Ward-1(2), Jabalpur was validly vested with the jurisdiction over the case of the assessee on the basis of allocation of his case on PAN data base. Our aforesaid view that an invalid jurisdiction assumed by the A.O cannot be held to be correct by drawing support from PAN jurisdiction is supported by the order of the ITAT, Delhi in the case of ITO Vs. NVS Builders (P.) Ltd. (2018) 169 ITD 679 (Delhi) (Trib.) and that of the ITAT, Kolkata in the case of Cosmat Traders P. Ltd. (2021) 128 taxmann.com 174(Kol).

24. We, thus, in terms of our aforesaid observations concur with the contention advanced by the Ld. AR that as the impugned assessment u/s. 143(3), dated 12.03.2014 had been framed *de hors* any valid notice issued by the jurisdictional Assessing Officer i.e. Income Tax Officer, Ward-2(2), Bilaspur, therefore, the same cannot be sustained and is liable to be struck down on the said count itself. Accordingly, we quash the assessment framed by the Income-Tax Officer, Ward-2(2), Bilaspur vide his order passed u/s. 143(3), dated 12.03.2014 for want of valid assumption of jurisdiction on his part.”

16. Apart from that, I find that a similar view that an assessment order passed u/s.143(3) *de-hors* issuance of a valid notice u/s.143(2) by the jurisdictional A.O cannot be sustained and is liable to be vitiated for want of valid assumption of jurisdiction had been arrived at in the following judicial pronouncements:

Sr. No.	Judgment/order
1.	Pr. Commissioner of Income Tax Vs. Nopany & Sons (2022) 136 taxmann.com 414 (Cal.)

2.	Sunworld Infrastructure (P). Ltd. Vs. ITO, Ward-24(3), New Delhi, (2015) 64 taxmann.com 471 (Delhi).
3.	KA Wires Ltd. Vs. Income Tax Officer, Ward-8(3), ITA No.1149/Kol/2019 dated 22.01.2020 ( Kolkata Tribunal)
4.	OSL Developers (P) Ltd. Vs. Income Tax Officer, ITA No.1909/Kol/2017 dated 03.12.2020 ( Kolkata Tribunal)
5.	Balaji Enterprise Vs. Assistant Commissioner of Income Tax, ITA No.354/Gau/2018 dated 13.11.2020 ( Gauhati Tribunal)
6.	Income Tax Officer, Ward-13(1) Vs. NVS Builders (P) Ltd. (2018) 91 taxmann.co, 462 ( Delhi-Trib.)
7.	Capstone Securities Analysis (P) Ltd. Vs. Deputy Commissioner of Income Tax, (2017) 85 taxmann.com.270 ( Pune-Trib)
8.	Cosmat Traders (P) Ltd. Vs. Income Tax Officer, Ward-(2) (2021) 128 taxmann.com 174 ( Kolkata-Trib)
9.	Manish Kumar & Sons HUF Vs. ITO, Ward-1(5), ITA No.1563/Del/2018 dated 22.11.2018 ( Delhi Tribunal)
10.	Manoj Kumar Vs. Assistant Commissioner of Income Tax, ITA No.1627/Del/2016 dated 24.02.2020 ( Delhi Tribunal)
11.	Hillman Hosiery Mills Pvt. Ltd. Vs. Deputy Commissioner of Income Tax, Circle 11(1), ITA No.2634/Kol/2019 dated 12.01.2021 ( Kolkata Tribunal)
12.	Eversafe Securities (P). Ltd. Vs. Income Tax Officer, Ward-5(3) (2021) 128 taxmann.com 347 ( Kolkata-Trib)
13.	Gold View Homes Ltd. Vs. Assistant Commissioner of Income Tax, ITA Nos.1037 & 1038/Bang/2019 dated 10.02.2021 ( Bangalore Tribunal)

I am, thus, in terms of my aforesaid observations principally in agreement with the claim of the Ld. AR that in absence of a valid notice u/s.143(2) of the Act having been issued by the jurisdictional A.O, an assessment order passed u/s.143(3) of the Act, though by

the officer having jurisdiction at the time of passing of the assessment order cannot be sustained and would be liable to be quashed for want of valid assumption of jurisdiction. Also, I concur with his contention that the A.O having jurisdiction over the case of the assessee at the time of framing of the assessment u/s.143(3) of the Act cannot assume jurisdiction on the basis of a notice u/s. 143(2) issued by an A.O who at the relevant point of time had no jurisdiction over the assessee. My aforesaid conviction is principally supported by the judgments of the Hon'ble High Court of Bombay in the case of **Ashok Devichand Jain Vs. UOI in W.P. No.3489 of 2019 dated 08.03.2022** and that in the case of **Pavan Murarka Vs. ACIT-2 (2022) 136 taxmann.com 2 (Bom.)**. Also support is drawn from the judgment of the Hon'ble High Court of Allahabad in the case of **Pr. Commissioner of Income Tax-II Vs. Mohd. Rizwan, prop. of M/s. MR Garments Moulviganj, Lucknow, ITA No.100 of 2015 dated 30.03.2017** and **CIT Vs. MI Builders (P) Ltd. (2014) 349 ITR 271 (Allahabad)**. Also, reliance in support the aforesaid proposition is drawn from the judgment of the Hon'ble High Court of Gujarat in the case of **Pankajbhai Jay Sukhlal Shah Vs. ACIT, Circle-2 (2019) 110 taxmann.com 51 (Guj.)**.

17. Although I have principally concurred on the first principle as had been canvassed by the Ld. AR before me i.e., an assessment

framed u/s.143(3) of the Act by the A.O having jurisdiction over the case of the assessee at the time of framing of the assessment, cannot be sustained, where the same had been framed on the basis of a notice u/s.143(2) issued by an A.O who at the relevant point of time was not vested with jurisdiction over the case of the assessee, but the facts involved in the present case after considering the contradictory contentions of both the parties would require certain factual verification. On the one hand, it is the claim of the Ld. AR that the jurisdiction over the case of the assessee firm as on 19.08.2013/during the prescribed period within which notice u/s.143(2) could have been issued for the year under consideration i.e. up to 30.09.2013 was vested with the ITO, Ward-2(3), Raipur, Page 64 of APB, while for it is the claim of the Ld. DR that the jurisdiction over the case of the assessee at the relevant point of time remained with the ITO, Ward-1(3), Raipur, Page 61 of APB. Controversy involved in the present case hinges around the aspect as to whether the jurisdiction over the case of the assessee at the relevant point of time was vested with the ITO, Ward-2(3), Raipur (as claimed by the assessee) or ITO, Ward-1(3), Raipur (as claimed by the department). I would mince no words in observing that the Ld. AR had on the basis of supporting documentary evidence i.e., copies of municipal receipts, copy of a sale deed and an “affidavit” of the

partner of the assessee firm (as were filed by the assessee pursuant to the direction of the Tribunal), tried to substantiate, that as the office of the assessee firm was situated within the municipal jurisdiction of "Ward-27, Raipur", therefore, as per the then Notification No.1 of 2011-12 dated 31.05.2011 issued by the Jt. Commissioner of Income Tax, Range-II, Raipur, which at the relevant point of time did hold the ground, Page 64-65 of APB, the territorial jurisdiction over its case at the said relevant point of time was vested with the ITO, Ward-2(3), Raipur. However, certain serious doubts as regards the maintainability of the aforesaid claim of the assessee have been raised by the Ld. DR. It is the claim of the Ld. DR that as the office of the assessee firm was situated at: "*A-2, Krishna Apartment, Baloda Bazar Road, Mowa, Raipur-492 001*" i.e. an area falling beyond the municipal limits of Raipur, therefore, as per Notification No.1 of 2011/12 dated 31.05.2011 issued by the Jt. Commissioner of Income Tax, Range-1, Raipur, that was applicable during the relevant period, Page 61 of APB, the jurisdiction over its case remained with the ITO, Ward-1(3), Raipur.

18. Considering the respective claims of the assessee and the department which militate against each other, I shall cull out certain facts which will have a strong bearing on resolving the controversy in hand.

19. As per the Notification No.1 of 2011-12, dated 31.05.2011, issued by the Jt. Commissioner of Income Tax, Range-2, Raipur, Page 64 of APB (as was applicable at the relevant point of time on 19.08.2013 i.e. the date on which notice u/s.143(2) was issued), the territorial jurisdiction of ITO, Ward-2(3), Raipur was as under (relevant extract):

<b>Government of India</b> <b>Ministry of Finance: Department of Revenue</b> <b>Office of the Joint Commissioner of Income tax, Range-II, Raipur</b> <b>Central Revenue Building, Civil Lines, Raipur</b>	
Notification No. 1/2011-12	Dated.31.05.2011
<b><u>NOTIFICATION</u></b>	
<p>In exercise of powers conferred under sub-section 1,2 and 5 of section 120 of the Income Tax Act, 1961 (43 of 1961 read with Instruction No. 1/2011 dates 31.01.2011 and Instruction N. 6/2011 dates 08.04.2011 issued by the Central Board of Direct Taxes, the notification by the Chief Commissioner of Income Tax, Raipur regarding revised income limits for assigning cases to Dupty Commissioners/ Asstt. Commissioners/ITOs vide F.No.CCIT/RPR/2011-12 dated 30.05.2011, the Notification No. 1/2011-12 dated 30.05.2011 by the Commissioner of Income Tax, Raipur and in partial modification of the existing Notification No. 1 of 2001 dated 1st August, 2001 in F.No. CIT/RPR/tech/Notfn-1/2001-2002 issued by the commissioner of Income Tax, Raipur in super cession of all existing notifications on the subjects and all other powers enabling him in this behalf, and in partial modification of the existing notification issued by the Additional/ Joint Commissioner of Income Tax, R-II, Raipur, the Additional/ Joint Commissioner of Income Tax, R-II, Raipur hereby directs that the Assessing Officers mentioned in column (2) of the Schedule below shall exercise and perform the functions under the Income Tax Act, 1961, Wealth Tax, 1957, in respect of such cases or classes of cases (specified in the corresponding entries in Col. NO. 3 of said schedule) or all such persons or the corresponding entries in Col. No. 3 of the said schedule) or all such persons or classes of persons specified in the Col. No. 3 of the said scheduled in such territorial areas as specified in the corresponding Col. No. 3 and in respect of all incomes or classes of incomes. The other contents of the existing Notification shall remain unchanged.</p>	

4.	<b>ITO,2(3), Raipur BPL-W-86-5</b>	<ol style="list-style-type: none"> <li>1. All the cases of salaried employees of private sector of Raipur Dist.</li> <li>2. All persons other than companies and other than those assessable by DCIT/ACIT 2(1), Raipur whose total income includes : <ol style="list-style-type: none"> <li>(a) Salaries and /or</li> <li>(b) Income from house property and/or,</li> <li>(c) profits and gains of business or profession and/or;</li> <li>(d) Capital gain and/or</li> <li>(e) income from other sources;</li> </ol> <p><b>And who fall within the territorial jurisdiction of following Municipal wards of Raipur</b></p> <p>Ward-26  <b>Ward-27</b>  Ward-28  Ward-29  Ward-32  Ward-33  Ward-45  Ward-46</p> </li> <li>3. All companies and their directors having registered office or principal place of business falling within the territorial jurisdiction of Income Tax Officer-2(3), Raipur and Income Tax Officer-2(4), Raipur whose return of income/loss on 01.04.2011 and as on 1<sup>st</sup> April of subsequent year is. Rs.15 lacs and less, where name is starting from the alphabet "M" to "R".</li> <li>4. All persons that may be assigned under section 127 of the IT Act, 1961.</li> </ol>
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On the other hand, as per Notification No.1 of 2011-12, dated 31.05.2011 issued by the Jt. Commissioner of Income Tax, Range-1, Raipur, Page 61 of APB (as was applicable at the relevant point of time on 19.08.2013 i.e. the date on which notice u/s. 143(2) was issued), the territorial jurisdiction of ITO, Ward-1(3), Raipur was as under (relevant extract):

<b>Government of India</b> <b>Ministry of Finance: Department of Revenue</b> <b>Office of the Joint Commissioner of Income tax, Range-I, Raipur</b> <b>Central Revenue Building, Civil Lines, Raipur</b>	
Notification No. 1/2011-12	Dated.31.05.2011
<b><u>NOTIFICATION</u></b>	
<p>In exercise of powers conferred under sub-section 1,2 and 5 of section 120 of the Income Tax Act, 1961 (43 of 1961 read with Instruction No. 1/2011 dates 31.01.2011 and Instruction N. 6/2011 dates 08.04.2011 issued by the Central Board of Direct Taxes, the notification by the Chief Commissioner of Income Tax, Raipur regarding revised income limits for assigning cases to Dupty Commissioners/ Asstt. Commissioners/ITOs vide F.No.CCIT/RPR/2011-12 dated 30.05.2011, the Notification No. 1/2011-12 dated 30.05.2011 by the Commissioner of Income Tax, Raipur and in partial modification of the existing Notification No. 1 of 2001 dated 1st August, 2001 in F.No. CIT/RPF/tech/Notfn-1/2001-2002 issued by the commissioner of Income Tax, Raipur in super cession of all existing notifications on the subjects and all other powers enabling him in this behalf, and in partial modification of the existing notification issued by the Additional/ Joint Commissioner of Income Tax, R-1, Raipur, the Additional/ Joint Commissioner of Income Tax, R-1, Raipur hereby directs that the Assessing Officers mentioned in column (2) of the Schedule below shall exercise and perform the functions under the Income Tax Act, 1961, Wealth Tax, 1957, in respect of such cases or classes of cases (specified in the corresponding entries in Col. NO. 3 of said schedule) or all such persons or the corresponding entries in Col. No. 3 of the said schedule) or all such persons or classes of persons specified in the Col. No. 3 of the said scheduled in such territorial areas as specified in the corresponding Col. No. 3 and in respect of all incomes or classes of incomes. The other contents of the existing Notification shall remain unchanged.</p>	

5.	<b>Income Tax Officer-1(3), Raipur BPL-W-85-3</b>	<p>(1) All persons [other than companies and other than those assessable by DCIT/ACIT-1(1) Raipur] whose total income includes</p> <p>(a) Income from house property and/or,  <b>(b) profits and gains of business or profession and/or;</b>  (c) Capital gain and/or  (d) income from other sources;</p> <p>And who fall within the territorial jurisdiction of the Raipur District <b>beyond the municipal limits</b> and Birgaon Nagar Palika.</p> <p>(2) All companies and their directors having registered office or principal place of business falling within the territorial jurisdiction of Income Tax Officer-1(1), Raipur and Income Tax Officer-1(2), Raipur and Income Tax Officer-1(3), Raipur whose return of income/loss on 01.04.2011 and as on 1<sup>st</sup> April of subsequent year is. Rs.15 lacs and less, where name is starting from the alphabet "S" to "Z".</p> <p>(3) All persons that may be assigned under section 127 of the IT Act, 1961.</p>
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20. On a careful perusal of the territorial jurisdiction of the ITO, Ward-2(3), Raipur, I find that the same at the relevant point of time i.e. on 19.08.2013, inter alia, included the assessee's falling within the territorial jurisdiction of "Ward-27", Raipur". Considering the aforesaid fact that the territorial jurisdiction over "Ward-27", Raipur" as on 19.08.2013 was vested with ITO, Ward-2(3), Raipur, I find that

the jurisdiction over the case of the assessee whose place of business at the relevant point of time is claimed to be situated in "Ward-27, Raipur", as the Ld. AR had tried to demonstrate before me on the basis of municipal receipts, sale deed and an affidavit of the partner of the assessee firm was at the relevant point of time i.e. on 19.08.2013 vested with the ITO, Ward-2(3), Raipur. On the contrary, it is the claim of the ld. DR that the territorial jurisdiction over the case of the assessee at the relevant point of time i.e. on 19.08.2013 was vested with the ITO, Ward-1(3), Raipur who had on the said date validly issued notice u/s.143(2) of the Act.

21. Ostensibly, the contention of the Ld. DR that the territorial jurisdiction over the case of the assessee firm at the time of issuance of notice u/s.143(2), dated 19.08.2013 was vested with the ITO, Ward-1(3), Raipur is based on his claim that as the office address of the assessee firm viz. "*A-2, Krishna Apartment, Baloda Bazar Road, Mowa, Raipur-492 001*" was at the relevant point of time situated beyond the municipal limits of District : Raipur, therefore, it brought the assessee within the territorial jurisdiction of the ITO, Ward-1(3), Raipur. However, the said claim of the Ld. DR apparently does not inspire much of confidence for the following reasons:

(i) that a reference to the jurisdictional chart filed by the Id. DR with me, inter alia, refers to the territorial jurisdiction of the ITO, Ward-1(3), Raipur as under (Page 61 of APB) :

5.	Income Tax Officer-1(3), Raipur BPL-W-85-3	<p>(1) All persons [ other than companies and other than those assessable by DCIT/ACIT-1(1) Raipur] whose total income includes</p> <p>(a)Income from house property and/or, (b) profits and gains of business or profession and/or; (c) Capital gain and/or (d) income from other sources;</p> <p>And who fall within the territorial jurisdiction of the Raipur District <b>beyond the municipal limits</b> and Birgaon Nagar Palika.</p> <p>(2) All companies and their directors having registered office or principal place of business falling within the territorial jurisdiction of Income Tax Officer-1(1), Raipur and Income Tax Officer-1(2), Raipur and Income Tax Officer-1(3), Raipur whose return of income/loss on 01.04.2011 and as on 1<sup>st</sup> April of subsequent year is. Rs.15 lacs and less, where name is starting from the alphabet "S" to "Z".</p> <p>(3) All persons that may be assigned under section 127 of the IT Act, 1961.</p>
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Although, it is the claim of the Ld. DR that the assessee is situated ".....beyond the municipal limits of District : Raipur, but on being confronted with the documents filed by the Ld. AR, viz. municipal receipts, sale deed and affidavit of partner of the assessee firm, which revealed that the assessee was situated in "Ward-27, Raipur", i.e. within municipal limits, and in fact in a municipal ward i.e. Ward-27 whose jurisdiction was categorically vested with the ITO, Ward-2(3), Raipur, he could not rebut the same.

<b>(ii)</b>	that the office address of the assessee viz., “A-2, Krishna Apartment, Baloda Bazar Road, Mowa, Raipur-492 001” as per the documents filed by the assessee before me, viz. (a) municipal receipts dated 04.10.2012, 01.03.2013 & 07.10.2014; (b) sale deed pertaining to the property under consideration, viz. Krishna Apartment; and (c) affidavit of the partner of the assessee firm, is stated to be situated within the municipal jurisdiction of “ <u>Ward-27, Raipur</u> ”, i.e., an area falling within the then territorial jurisdiction of <u>ITO, Ward-2(3), Raipur</u> .
<b>(iii)</b>	that now when the office address of the assessee firm is shown to be situated within the municipal jurisdiction of “Ward-27, Raipur”, therefore, the very claim of the Ld. DR that the same during the relevant period was situated beyond the municipal limits of the Raipur apparently falls to ground and fails.
<b>(iv)</b>	<p>that the A.O vide his <u>letter dated 16.01.2023</u> filed before me (through the Jt. Commissioner of Income Tax, ITAT Raipur) in the course of hearing of the appeal, while rectifying the contents of his earlier <u>letter dated 18.11.2022</u>, had stated, that it was on the earlier occasion <u>inadvertently stated by him that the notice u/s.143(2) for A.Y.2012-13 was issued by the jurisdictional A.O i.e. ITO, Ward-1(3), Raipur on 19.08.2013</u>, while the fact was that the same was issued by the A.O i.e. <u>ITO, Ward-1(3), Raipur who was having PAN jurisdiction over the case of the assessee on 19.08.2013</u>. For the sake of clarity, the relevant observation of the A.O is culled out as under (relevant extract) :-</p> <p style="text-align: center;"><b>“In this regard, it is submitted that in this office letter dated 18.11.2022 it has been inadvertently written as “.....on perusal of case records and submission made by the assessee, it is found that notice u/s.143(2) for A.Y.2012-13 was issued by the jurisdictional A.O. ITO Ward-1(2), Raipur on 19.08.2013....” instead of “.....On perusal of case records and submission made by the assessee, it is found that notice u/s.143(2) for A.Y.2012-13 was issued by the A.O, ITO-1(3), Raipur having the PAN jurisdiction on 19.08.2013.....”. It is highly regretted for the inconvenience made due to inadvertent mistake and accordingly, the Hon’ble ITAT may be initiated for the earnest regretfulness.</b></p> <p style="text-align: right;">Yours faithfully, Sd/- (G.V. Chalamaji) Income Tax Officer, 3(1), Raipur (C.G.)”</p>

	<p>As such, the ITO, Ward-3(1), Raipur had admitted that the ITO, Ward-1(3), Raipur as on 19.08.2013 was not the jurisdictional A.O of the assessee firm, but only had PAN jurisdiction over its case.</p>									
<b>(v)</b>	<p>Although, the present jurisdictional A.O of the assessee firm i.e. <u>ITO, Ward-3(1), Raipur vide his aforesaid letter had fairly admitted that the ITO, Ward-1(3), Raipur who had issued notice u/s.143(3), dated 19.08.2013 was not the jurisdictional A.O</u>, but was having the PAN jurisdiction over the case of the assessee, I find that even the said claim of his is apparently not correct. I, say so, for the reason that as observed by me at <u>Para 9</u>, hereinabove, the territorial jurisdiction as per the respective addresses provided in the PAN profile of the assessee, <u>Page 78</u> of APB, was as under:-</p> <table border="1" data-bbox="440 922 1388 1464"> <thead> <tr> <th data-bbox="440 922 536 999">S. No.</th> <th data-bbox="536 922 992 999">Particulars</th> <th data-bbox="992 922 1388 999">A.O (having jurisdiction)</th> </tr> </thead> <tbody> <tr> <td data-bbox="440 999 536 1214">1.</td> <td data-bbox="536 999 992 1214">A-2, Krishna Apartment, Baloda Bazar Road, Mowa, Raipur-492 001</td> <td data-bbox="992 999 1388 1214"><b>Ward-2(3), Raipur</b> (As per Notification No.1/2011-12, dated 31.05.2011 issued by Joint Commissioner of Income Tax, Range-II, Raipur, <u>Page 64</u> of APB.</td> </tr> <tr> <td data-bbox="440 1214 536 1464">2.</td> <td data-bbox="536 1214 992 1464">213-214, B Block Crystal Arcade, Rajiv Nagar, Raipur, RAIPUR Kutchery, S.O. 492 001, Chhattisgarh</td> <td data-bbox="992 1214 1388 1464"><b>Ward-1(2), Raipur</b> (As per the then Notification No.1/2011-12, dated 31.05.2011 issued by Joint Commissioner of Income Tax, Range-1, Raipur, <u>Page 61</u> of APB</td> </tr> </tbody> </table> <p>Also, as observed by me hereinabove, the territorial jurisdiction over the address provided in the return of income by the assessee was also apparently with the ITO, Ward-2(3), Raipur.</p>	S. No.	Particulars	A.O (having jurisdiction)	1.	A-2, Krishna Apartment, Baloda Bazar Road, Mowa, Raipur-492 001	<b>Ward-2(3), Raipur</b> (As per Notification No.1/2011-12, dated 31.05.2011 issued by Joint Commissioner of Income Tax, Range-II, Raipur, <u>Page 64</u> of APB.	2.	213-214, B Block Crystal Arcade, Rajiv Nagar, Raipur, RAIPUR Kutchery, S.O. 492 001, Chhattisgarh	<b>Ward-1(2), Raipur</b> (As per the then Notification No.1/2011-12, dated 31.05.2011 issued by Joint Commissioner of Income Tax, Range-1, Raipur, <u>Page 61</u> of APB
S. No.	Particulars	A.O (having jurisdiction)								
1.	A-2, Krishna Apartment, Baloda Bazar Road, Mowa, Raipur-492 001	<b>Ward-2(3), Raipur</b> (As per Notification No.1/2011-12, dated 31.05.2011 issued by Joint Commissioner of Income Tax, Range-II, Raipur, <u>Page 64</u> of APB.								
2.	213-214, B Block Crystal Arcade, Rajiv Nagar, Raipur, RAIPUR Kutchery, S.O. 492 001, Chhattisgarh	<b>Ward-1(2), Raipur</b> (As per the then Notification No.1/2011-12, dated 31.05.2011 issued by Joint Commissioner of Income Tax, Range-1, Raipur, <u>Page 61</u> of APB								

On the basis of the aforesaid facts it transpires that not only as admitted by the present A.O i.e. ITO, Ward-3(1), Raipur, the ITO, Ward-1(3) at the relevant point of time i.e. on 19.08.2013 was not the

jurisdictional A.O in the case of the assessee, but contrary to what was claimed by him it appears that the ITO, Ward-1(3), Raipur was not even having PAN jurisdiction over the assessee's case at the said relevant point of time.

22. I am though of the considered view that now when the Ld. AR had on the basis of supporting documentary evidences apparently substantiated his claim that the territorial jurisdiction over the case of the assessee at the relevant point of time was vested with the ITO, Ward-2(3), Raipur, therefore, there is substance in his claim that in the absence of any notice u/s.143(2) having been issued by the said A.O within the stipulated time period i.e. latest by 30.09.2013, the assessment order thereafter passed by the ITO, Ward-3(1), Raipur u/s.143(3) of the Act, dated 30.03.2015 cannot be sustained and is liable to be vacated on the said count itself. However, in all fairness, being the last fact finding authority, I am of the considered view that as the assessee in order to drive home his aforesaid claim had placed on record certain fresh documents, viz. municipal receipts, copy of sale deed and affidavit of the partner of the assessee firm, neither of which were there before the lower authorities, therefore, considering the fact that contradictory claims as regard vesting of jurisdiction over the assessee's case at the relevant point of time i.e. on 19.08.2013, have been raised before me both by the assessee and the

revenue, which would require a foolproof verification in the backdrop of the aforesaid documents, thus, the matter in all fairness requires to be revisited by the A.O. I, thus, in terms of my aforesaid observations for the aforesaid limited aspect i.e. for verifying as to whether or not the territorial jurisdiction over the case of the assessee firm as on 19.08.2013 was vested with the ITO, Ward-1(3), Raipur i.e. the A.O who had issued notice u/s.143(2) of the Act dated 19.08.2013, thus, restore the matter to the file of the A.O. In case it is found that the territorial jurisdiction over the case of the assessee on the date of issuance of notice u/s.143(2) on 19.08.2013 was not vested with the ITO, Ward-1(3), Raipur, then the assessment so framed u/s.143(3) of the Act dated 30.03.2015 would stand vacated. At this stage, I may herein observe, that the A.O in the course of the set-aside proceedings shall before arriving at a final conclusion as regards the territorial jurisdiction over the case of the assessee at the relevant point of time i.e. on the date of issuance of notice u/s.143(2) dated 19.08.2013, keep in view the observations recorded by me hereinabove. Accordingly, the matter is restored to the file of the A.O for the aforesaid limited purpose. Thus, the **additional ground of appeal** raised by the assessee is allowed for statistical purposes in terms of my aforesaid observations.

23. As the Ld. AR had stated that as per instruction he is not pressing **Grounds of appeal No.(s) 2 to 3**, therefore, the same are dismissed as not pressed.

24. That as the Ld. AR had not advanced any contentions on merits as regards the Ground of appeal No. 4 i.e., declining of its claim for deduction u/s.80IB(10) of Rs.21,97,992/-, therefore, I refrain from advertng to and therein adjudicating the same. Thus, the **Ground of appeal No.4** is disposed off in terms of my aforesaid observations.

25. **Ground of appeal No.5** being general in nature is dismissed as not pressed.

26. In the result, appeal of the assessee is partly allowed for statistical purposes in terms of my aforesaid observations.

Order pronounced in open court on 24<sup>th</sup> day of January, 2023

Sd/-

**(रवीश सूद / RAVISH SOOD)**

न्यायिक सदस्य/JUDICIAL MEMBER

रायपुर / Raipur; दिनांक / Dated : 24<sup>th</sup> January, 2023

\*\*\*\*\*SB

**आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(Appeals)-1, Raipur (C.G.)
4. The Pr. CIT-1, Raipur (C.G.)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, “एक-सदस्य” बेंच,  
रायपुर / DR, ITAT, “SMC” Bench, Raipur.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

निजी सचिव /Private Secretary

आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur