IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "A", PUNE

BEFORE SHRI R. K. PANDA, VICE PRESIDENT
AND
MS ASTHA CHANDRA, JUDICIAL MEMBER

ITA No.304/PUN/2024
Assessment Year : 2017-18

ITO, Ward 1, Ahmednagar	**Vs.**	Atul Ashok Parakh M/s. Ashok Bansilal Parakh, Adate Bazar, Ahmednagar – 414001
		PAN: AAXPP7881R
(Appellant)		**(Respondent)**

CO No.17/PUN/2024
Assessment Year : 2017-18

Atul Ashok Parakh M/s. Ashok Bansilal Parakh, Adate Bazar, Ahmednagar – 414001	**Vs.**	ITO, Ward 1, Ahmednagar
PAN: AAXPP7881R		
(Cross Objector)		**(Respondent)**

Assessee by	**:**	Shri Prasad S Bhandari
Department by	**:**	Shri Pawan Bharati
Date of hearing	**:**	19-06-2024
Date of pronouncement	**:**	05-07-2024

O R D E R

PER R.K. PANDA, VP :

This appeal filed by the Revenue is directed against the order dated 21.12.2023 of the CIT(A) / NFAC, Delhi relating to assessment year 2017-18. The assessee has filed the Cross Objections against the appeal filed by the Revenue. For the sake of convenience, the appeal filed by the Revenue and the Cross

Objections filed by the assessee were heard together and are being disposed off by this common order.

2. Facts of the case, in brief, are that the assessee is an individual and filed his return of income on 17.10.2017 declaring total income of Rs.8,80,120/-. The case was reopened u/s 147 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') on the basis of information that (1) the assessee has made cash loan of Rs.50 lacs from various parties through Shri Sachin Madanlal Nahar with an objective to evade the taxes and (2) immovable property transaction of Rs.2,68,70,000/- carried out in cash as per Registration No.2635/2017 at Joint SRO, Haveli 2, Pune. According to the Assessing Officer, a search and seizure action u/s 132 of the Act was carried out in the case of Shri Sachin M Nahar on 01.08.2017 who is working as finance broker and as middleman who provides a platform for those investors who are having surplus fund and the borrowers who are in the need of funds. During the course of search, in his statement u/s 132(4) of the Act, Shri Sachin M Nahar had stated that he is doing his business through cheque as well as in cash and explained the *modus operandi* of his business. He has admitted that the various parties have taken cash loans from various other parties through him, since he was a broker between these two parties and he used to receive commission for these transactions. He had given the details of the parties who have taken cash loans through him.

3. During the course of assessment proceedings, the Assessing Officer confronted the assessee regarding the loans taken by him through Sachin M Nahar. Since the assessee failed to explain the cash loan of Rs.50 lacs taken by him from various parties through Sachin M Nahar and also failed to provide the source of transaction made towards immovable property amounting to Rs.2,68,70,000/-, the Assessing Officer made addition of the same (i.e. Rs.50,00,000/- + Rs.2,68,70,000/-, both totaling to Rs.3,18,70,000/-) to the total income of the assessee by invoking the provisions of section 69 of the Act.

4. Before the CIT(A) / NFAC, the assessee apart from challenging the addition on merit had also challenged the validity of re-assessment proceedings. The CIT(A) / NFAC deleted the addition of Rs.50 lacs made by the Assessing Officer by holding that the Assessing Officer has made the addition u/s 69 of the Act which is not applicable to the facts of the present case. The relevant observations of the CIT(A) / NFAC from para 5.3 reads as under:

> *"5.3 I have perused the impugned assessment order, facts of the case, submissions made by the appellant and the documentary evidences filed by the appellant. The information on the basis of which the case was re-opened was received from the O/o DDIT(Inv), Pune wherein it was intimated that a search and seizure action was carried out u/s 132 of the Act in the case of Shri Sachin M Nahar on 01/08/2017 who was acting as a middleman between the investors having surplus fund and the borrowers who are in need funds with commission as for Shri Nahar's recompense. Per the statement of Shri Nahar recorded u/s 132(4) of the Act, it was stated that the appellant had received cash loans amounting to Rs.50,00,000/- from various parties during the year under consideration. The AO further stated that the appellant could not explain the cash loans and subsequently, added the alleged sum as unexplained investment u/s 69 of the Act.*
>
> *From the above, it is seen that the AO completely relied on the statement recorded of Shri Nahar u/s 132(4) of the Act without conducting any enquiry from their end.*

Even basic step of calling for information through the issue of notice u/s 133(6) to the lenders was not undertaken by the AO, thereby failing to establish any nexus of the alleged sum with the appellant.

5.4 It is further surprising to note that the AO has treated and added this sum under the provisions of section 69 of the Act as unexplained money whereas the said section pertains to unexplained investment. The section reads as under:-

> *"Where in the financial year immediately preceding the assessment year the assessee has made investments which are not recorded in the books of account, if any, maintained by him for any source of income, and the assessee offers no explanation about the nature and source of the investments or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory, the value of the investments may be deemed to be the income of the assessee of such financial year."*

If the sum of Rs 50,000,00/- has been treated as cash loans that the appellant has allegedly raised from various parties then the said sum is not an investment but a liability and should not have been treated as an unexplained investment. It may be safely assumed that the AO could not firstly establish that the said loans were indeed raised and that they were not recorded in their books of accounts or that it was anything that became a way for the appellant to evade taxes. No enquiries or investigation was ever resorted to by the AO.

5.5Reliance is also placed on the following rulings:-

(a) In the case of S.R Goel Vs. DCIT reported in (2004) 269 ITR 59 (Mum) 85), Hon'ble Mumbai tribunal held that the loose paper in itself has got no intrinsic value. When it is a mere entry on a rule sheet of a paper. Then there has to be circumstantial evidences to support that the entry relates to income.

(b) In the case of Nishant Constructions Pvt. Ltd. Vs. ACIT in ITA No. 1502/AHD/2015 dated 14/02/26017, wherein, Hon'ble Ahmedabad Tribunal held that the impounded loose sheet can at the most be termed as "dumb document" which did not contain full details about the dates, and its contents were not corroborated by any material and could not be relied upon and made the basis of addition.

(c) Amarjith Singh Bakshi Vs. Asst. CIT reported in 86 ITD 13 Delhi, held that any noting in the loose sheet is no evidence itself. Notings on loose sheets of paper are required to be supported/corroborated by other evidence which may include the statement of a person who admittedly is a party to the notings.

(d) The Calcutta Bench of ITAT in case of TS Venkatesan Vs. ACIT reported in [2000] 74 ITD 298 (Cal.) held that in the absence of corroborative evidence, addition of undisclosed income could not be made simply on the basis of entries on loose papers recovered from the residence of a third party and certain general statements of said party.

(e) In the case of T. Mudduveerappa Sons reported in [1993] 45 ITD 12 (Bang.), the Bangalore Bench of ITAT held that in absence of any external evidence, addition cannot be resorted to only on the basis of loose papers. The department had not brought on record any evidence to prove conclusively that the seized documents contained details of secreted profits which were chargeable to tax. No doubt, the seized papers contained statement in figures of what appeared to be the financial results of certain unnamed transactions but there was nothing either in law or in logic to warrant the conclusion that the figures denoted secreted profits which were chargeable to tax. The details of distribution contained in the seized papers did not by themselves present a preponderance of probabilities so as to support department's case that what was distributed was taxable income.

(f) CIT (Central-II) Vs. D.K.Gupta reported in [2008] 174 TAXMAN 476 (DELHI) held that dumb document without any corroborating evidence or documents have materialized into transactions cannot be deemed to be held income of the assessee.

(g) Ashwani Kumar Vs. ITO reported in (1999)39 ITD 183 Delhi - ITAT-: In the case of dumb documents, the revenue should collect necessary evidence to prove that the figures represent incomes earned by the Assessee.

(h) D.A.Patel Vs. Dy. CIT reported in (2000) 72 ITD 340 Mumbai held that simply because a sheet of paper was found during the search at the premises of an assessee, he could not be saddled with a tax liability unless it could conceivably be related to the assessee in some reasonable manner.

5.6 Thus, considering the facts of the case in light of the discussions made above and also respectfully following the decisions of various High Courts and Tribunals, I find no reason to sustain the addition made by the AO of Rs. 50,00,000/- on account of unexplained investment. In view of this, the addition made of Rs. 50,00,000/- is deleted and the relevant grounds of appeal nos. 3,4 & 5 of the appeal are allowed."

5. So far as the addition of Rs.2,68,70,000/- made u/s 69 of the Act is concerned, the CIT(A) / NFAC held that such transaction was carried out in assessment year 2014-15 and that too through banking channel and therefore, it is not relevant for the year under consideration. Further, the transaction was carried out by the firm in which the assessee is a partner and therefore, the Assessing Officer was not justified in making addition. The relevant observations of the CIT(A) / NFAC on this issue from para 6.2 onwards of his order reads as under:

"6.2 I have carefully considered the facts of the case, the impugned assessment order, the various submissions put forth by the appellant and the evidences submitted by them in this regard. It can be seen that the AO had received information from the O/o DDIT(I&CI), Pune disseminated through the insight portal that the appellant had entered into a sale transaction in cash regarding an immovable property amounting to Rs.2,68,70,000/- vide Registration no. 2635/2017 registered in the office of the Joint Sub Registrar, Haveli-21, Pune. The AO in the impugned order held that the appellant was not able to explain the source of the said transaction with documentary evidences and thus proceeded to add the said amount invoking the provisions of sec 69 of the Act. However, the appellant avers that the alleged cash transaction was actually carried out through banking channel in the FY 2014-15 which is not relevant to the year under consideration. It was further submitted that the said transaction was actually carried out by the firm in which the appellant is a partner. Since the authorized signatory on behalf of the firm happens to be the appellant, his PAN is mentioned in the sale deed.

6.3 The AO in his order stated that the appellant had entered in the transaction of immovable property in cash amounting to Rs.2,68,70,000/- vide Registration no. 2635/2017 registered in the office of the Joint Sub Registrar, Haveli-21, Pune. However, on perusal of the Index-II cited above, it appears that there are certain mismatch of data in the information received by the AO. First of all, there is no registered document bearing no. 2635/2017 and also no registration has been entered into by the appellant in the office of the sub-registrar, Haveli-21, Pune and lastly, the said amount pertains to the transaction carried out by the Firm (Naman Construction) and that is also in FY 2014-15 relevant to AY 2015-16. The AO could not bring any evidence on record in support of the transaction claimed in the assessment order. The appellant further submits that the registration no. 2635/2017 as mentioned by the AO in his order is the deed of the apartment and not a deed of any transaction as the actual transaction deed was made on 22/01/2015 vide document no. 663/2015 on the sale of Flat bearing no. 501 against the sum of Rs. 2,68,70,000/- and submitted a copy of the deed of the agreement as an enclosure to the submission made during the course of the appeal proceedings and on perusal of the same, the appellant's claim is found to be correct. In clause (f) of the agreement deed, it is mentioned as under:-

"In the meanwhile, the Purchasers, by duly stamped and executed Agreement to Sell dated 22.01.2015, registered in the office of the Sub-Registrar, Haveli No.1, at Serial No.663/2015, on the same day, agreed to purchase the residential apartment in the building then being constructed on the said property, more particularly described in the SHEDULE-2 written herein (hereinafter referred to as the said " APRATMENT"), from the Owners/Promoters, for and at the lump sum price of Rs.2,68,70,000/- (two crore sixty eight lakh seventy thousand only)"

Thus, considering the facts of the case and evidences placed on record, it can be said that the AO has made the alleged addition without actually investigating the

facts of the case and arrived at a wrong conclusion without conducting any independent inquiry in this regard.

Based on the facts discussed above and considering the evidences placed on record, I find no reason in sustaining the alleged addition made of Rs.2,68,70,000/- as the said transaction was clearly explained by the appellant whereby it is seen that it pertains to the firm viz. Naman Construction for AY 2015-16 where the appellant is a partner.

In view of this, the addition made of Rs.2,68,70,000/- is deleted and the relevant grounds raised in regard to this issue are treated as allowed.

7. Ground nos. 1 and 10 are general grounds which require no separate adjudication as the issues of these grounds have been covered in the preceding para."

6. So far as the grounds challenging the validity of re-assessment proceedings are concerned, the CIT(A) / NFAC dismissed the same by observing as under:

"8. Ground no.2 is legal in nature, wherein, the validity of the reopening proceedings have been challenged. Though the additions and disallowances made in the impugned order are deleted it is still pertinent to mention here that all the procedural aspects of re-opening of the order, right from recording of the reasons to the issue of the notice u/s 148 of the Act have been correctly done per procedure and relevant provisions and hence the said ground of the appellant stands dismissed."

7. Aggrieved with such order of CIT(A) / NFAC , the Revenue is in appeal before the Tribunal by raising the following grounds:

1. Whether on facts and circumstances of the case, the Ld. CIT(A) is justified in deleting addition of Rs.50,00,000/- u/s 69 of the Act on account of cash loan by ignoring the fact that during assessment proceedings assessee grossly failed to discharge the onus to prove and explain the transaction.

2. Whether on facts and circumstances of the case, the Ld. CIT(A) is justified in deleting addition made by the AO of Rs.2,68,70,000/- u/s 69 of the Act on the basis of additional evidence submitted by assessee without providing any opportunity to the assessing officer to examine the additional evidence admitted by him as per the provisions of section 46A(3) of the I.T. Rules?

8. So far as the order of CIT(A) / NFAC in upholding the validity of re-assessment proceedings are concerned and the validity of assessment order in absence of notice u/s 143(2) of the Act is concerned, the assessee is in appeal by raising the following grounds in Cross Objections:

> *1. On the facts and in the circumstances of the case and in law, the Ld. Assessing Officer erred in objecting the order of Resp. CIT(A)-NFAC without considering the fact that no notice under section 143(2) was issued which was mandatory to issue thereby making the assessment order bad in law. Hence, addition made is not justified at all.*
>
> *2. On the facts and in the circumstances of the case and in law, the Ld. Assessing Officer erred in objecting the order of Resp. CIT(A)-NFAC without considering the fact that no reasons were provided to the appellant along with the documents replied upon at the time of issue of notice under section 148, Hence, addition made is not justified at all.*
>
> *3. On the facts and in the circumstances of the case and in law, the Ld. Assessing Officer erred in objecting the order of Resp. CIT(A)-NFAC without considering the fact that the case has been reopened on merely on the borrowed satisfaction and addition is made on presumptions and surmises. Hence, addition made is not justified at all."*

9. Before deciding the appeal on merits, we would like to decide the Cross Objections first. The Ld. Counsel for the assessee drew the attention of the Bench to the submissions made by the assessee before the CIT(A) / NFAC regarding the validity of assessment in absence of notice u/s 143(2) of the Act. The Ld. Counsel for the assessee submitted that although a specific ground was taken before the CIT(A) / NFAC and written submissions filed to this effect which have been reproduced by the CIT(A) / NFAC, however, the same was not at all considered. He submitted that since the Assessing Officer has not issued any notice u/s 143(2), therefore, the very order of the Assessing Officer being null and void, the entire proceedings have to be quashed.

10. Referring to the decision of the Pune Bench of the Tribunal in the case of Shri Krishna Bhimrao Gokhale and batch of other appeals vide order dated 20.01.2016, he submitted that under identical circumstances, the Tribunal has quashed the re-assessment proceedings in absence of service of notice u/s 143(2) of the Act. Referring to the copy of the assessment order, the Ld. Counsel for the assessee submitted that although the Assessing Officer refers to the issue of notice u/s 142(1) of the Act, however, he has not at all issued any notice u/s 143(2) of the Act. Referring to the screenshot copy of notices of e-proceedings, the Ld. Counsel for the assessee drew the attention of the Bench to the various notices issued by the Assessing Officer and submitted that all these notices are u/s 142(1) and there is no notice issued by the Assessing Officer u/s 143(2) after filing the return of income. He submitted that since the Assessing Officer has completed the assessment u/s 143(3) r.w.s. 147 of the Act without issuing the mandatory notice u/s 143(2) of the Act, therefore, such re-assessment proceedings being *void ab initio* have to be quashed.

11. The Ld. DR on the other hand submitted that the assessee has never raised any objection before the Assessing Officer. Although the assessee has made certain submissions before the CIT(A) on this issue, however, the CIT(A) / NFAC has not adjudicated the issue from the angle of non-issue of notice u/s 143(2) by the Assessing Officer. He however, conceded that as per assessment record, no such notice u/s 143(2) has been issued.

12. We have heard the rival arguments made by both the sides, perused the orders of the Assessing Officer and Ld. CIT(A) / NFAC and the paper book filed by both the sides. We find the grievance of the assessee in the Cross Objections is regarding the validity of assessment in absence of notice u/s 143(2) of the Act. A perusal of the assessment order nowhere shows that the Assessing Officer has issued notice u/s 143(2) after the assessee filed his return of income in response to notice u/s 148 of the Act. Similarly, the screenshot copy of the e-proceedings nowhere shows the issue of notice u/s 143(2) by the Assessing Officer.

13. We find the assessee before the CIT(A) / NFAC has taken a specific ground regarding the validity of assessment in absence of issuance of notice u/s 143(2) of the Act where the grounds No.2(3) reads as under:

> *"GROUNDS OF APPEAL*
>
> *On facts and in law and without prejudice to one another -*
>
> *1. ....*
>
> *2. The Assessment Order passed by the. AO U/Sec.147 r.w.s 144B of the Act is bad in law and void ab-initio on account of following reasons:*
>
> *1. ....*
> *2.....*
> *3. No notice u/sec. 143(2) of the Act was issued.*
> *4. ....."*

14. Similarly, we find before the CIT(A) / NFAC the assessee has made the following written submissions challenging the validity of assessment in absence of issuance of notice u/s 143(2) of the Act.

"2. The Assessment Order passed by the AO U/Sec.147 r.w.s 144B of the Act is bad in law and void ab initio on account of following reasons:

(c) No notice u/sec.143(2) of the Act was issue.

It shall be noted by your honour that the Ld. Assessing Officer failed to issue notice under section 143(2) on filing of return in response to notice under section 148 on 10.12.2021.

He has mentioned in para 4 of the assessment order about the filing of return by the assessee in response to the notice under section 148 and he also mentioned about the notices issued under section 142(1) of the Act but there is no mention of issue of notice under section 143(2) which was mandatory to issue. The relevant part of para 4 of Assessment Order is reproduced hereunder for your honour's ready reference –

Since the above stated transactions remained unexplained, accordingly, notice u/s 148 was issued on 31.03.2021 and served upon the assessee to file the return of income within 30 days of the receipt of notice. Against this notice assessee has filed its ITR for the AY 2017-18 vide ITR date 10.12.2021 (ROI: Rs.11,97,940/-). Further, notice u/s 142(1) was issued to the assessee vide notices dated 31.10.2021, 26.11.2021 & 21.02.2022. In response the above notices, assessee filed his reply and submitted the financial details and provided that:-

From the above, it is clear that the Ld. Assessing Officer taken the cognizance of the return in response to section 148 but failed to issue notice under section 143(2) which was the very essence of a valid assessment.

it is needless to state that the very condition of the assessment is to issue notice under section 143(2) of the Act on filing of return by the assessee. In support of this argument, reliance placed on the following judgments of Hon'ble Jurisdictional Pune ITAT -

iii) ITO Vs S. M. Batha Education Trust, ITA No.2908/PUN/2016

iv) Shri Krishna Bhimrao Gokhale Vs. ITO, ITA No.1308/PUN/2014

The copy of the above judgments is attached herewith as per Annexure- 13.

2.4 From the above facts and the actions of the Ld. Assessing Officer, it is crystal clear that, has made the gross mistake in non-issuing the notice under section 143(2) of the Act thereby making the entire assessment proceedings under consideration invalid and bad in law. Thus, there is gross negligence on the part of the Ld. Assessing Officer and therefore, the addition made in the impugned invalid assessment deserve to be deleted.

> *In the light of the above facts and the provisions of the law, addition made in the impugned assessment order is bad in law and hence deserve for deletion. Therefore, your honour is requested to delete the impugned additions made and make the justice with the assessee."*

15. We find although such specific ground has been taken by the assessee before the CIT(A) / NFAC and written submissions were filed, however, the CIT(A) / NFAC has preferred not to decide this issue by simply holding that all procedural aspects of reopening of the order, right from the recording of the reasons to the issue of the notice u/s 148 have been correctly done. He, however, forgot to note that after the issue of notice u/s 148 when the assessee filed the return of income, no notice u/s 143(2) was issued although notice u/s 142(1) was issued. We find an identical issue had come up before the Pune Bench of the Tribunal in the case of Shri Krishna Bhimrao Gokhale and batch of other appeals vide ITA Nos.1308/PN/2014 to 1315/PN/2014, consolidated order dated 20.01.2016 for the assessment year 2006-07 where the Tribunal, after thoroughly discussing the issue, had quashed the assessment being without jurisdiction and bad in law by observing as under:

> *"7. Briefly, in the facts of the present case, the Assessing Officer issued notice under section 148 of the Act. In response to the same, the assessee furnished return of income on 22.04.2009 declaring Nil income, in addition to agricultural income at Rs.5,000/-. The return of income was accompanied with the statement of total income and note on transaction i.e. of sale and purchase. The Assessing Officer referred to the transaction entered into by the assessee and thereafter, vide para 3 notes that he had issued the notice under section 142(1) of the Act, which was served on the assessee directing to attend office on 28.05.2009 at 11.00 A.M. along with supporting evidence. In response thereto, the assessment proceedings were taken up.*
>
> *8. Now, the assessee before us has filed an additional ground of appeal No.1, in which he has challenged the assessment order being passed under section 143(3) of the Act without serving the statutory notice under section 143(2) of the*

Act. The assessment order so passed is claimed to be bad in law and liable to be set-aside. The additional ground of appeal No.1 filed by the assessee is a legal issue and in view of the ratio laid down by the Hon'ble Supreme Court in National Thermal Power Co. Ltd. Vs. CIT (1998) 229 ITR 383 (SC), the same is admitted. The assessee by way of this additional ground of appeal has challenged the assessment order passed in the present case being invalid and bad in law, since no notice under section 143(2) of the Act was served upon the assessee. The assessment in the hands of the assessee was initiated by issue of notice under section 148 of the Act pursuant to which, the assessee furnished the return of income declaring Nil income and agricultural income of Rs.5,000/-. The requirement of the Act thereafter is to serve upon the assessee notice under section 143(2) of the Act. Admittedly, the same has not been served upon the assessee. The report of Assessing Officer, Ward-1, Satara dated 11.01.2016 admitting that on the records, there are no notices under section 143(2) of the Act on file and no evidence of service of notice under section 143(2) of the Act is available. Where the assessee had furnished return of income, thereafter, it is incumbent upon the Assessing Officer to issue notice under section 143(2) of the Act within time limit prescribed in the proviso to section 143(2) of the Act. Admittedly, the said condition has not been complied with by the Assessing Officer. In such circumstances, where the Assessing Officer has not followed the provisions of the Act in serving upon the assessee a notice under section 143(2) of the Act within prescribed period, which is a pre-requisite for framing of the assessment in the hands of assessee, then the assessment order so passed is without jurisdiction and is bad in law. We find support from the ratio laid down by the Hon'ble Supreme Court in ACIT Vs. Hotel Blue Moon (2010) 188 TAXMAN 113 (SC), the case law relied upon by the learned Authorized Representative for the assessee. Though, in the facts of the case before the Hon'ble Supreme Court (supra), the proceedings were initiated under section 158BC of the Act, the Hon'ble Supreme Court held that even for completing block assessment in such cases, the requirement of procedure was to issue notice under section 143(2) of the Act and in the absence of the same, the assessment made by the Assessing Officer was held to be invalid. Further, the Hon'ble Punjab & Haryana High Court in CIT Vs. Cebon India Ltd. (2009) 184 TAXMAN 290 (Punj. & Har) has laid down similar proposition in respect of regular assessment completed under section 143(3) of the Act, without service of notice under section 143(2) of the Act. Relying on the aforesaid propositions, we hold that there is no merit in the assessment order passed in the present case and hence, the same is held to be without jurisdiction and bad in law and the same is set-aside. The additional ground of appeal No.1 raised by the assessee is thus, allowed. In view of our holding the assessment to be without jurisdiction and bad in law, we are not adjudicating the issues raised on merits of the additions.

9. The facts and issues in ITA Nos.1308/PN/2014 to 1312/PN/2014 and ITA Nos.1314/PN/2014 & 1315/PN/2014 are identical to the facts and issues in ITA No.1313/PN/2014 and our decision in ITA No.1313/PN/2014 shall apply mutatis mutandis to ITA Nos.1308/PN/2014 to 1315/PN/2014 and ITA Nos.1314/PN/2014 & 1315/PN/2014 and hence, assessment is held to be without jurisdiction and bad

in law. The additional ground of appeal No.1 raised by the assessees in all the appeals is thus, allowed."

16. Since in the instant case also, no notice u/s 143(2) has been issued by the Assessing Officer after the assessee filed his return of income in response to notice u/s 148, therefore, such assessment order has to be held to be without jurisdiction and bad in law and is liable to be set aside. We, therefore, set aside the assessment order passed by the Assessing Officer. Since the assessee succeeds on this legal ground, therefore, the grounds raised by the Revenue challenging the deletion of various additions made by the Assessing Officer become academic in nature and are not being adjudicated.

17. In the result, the Cross Objection filed by the assessee is allowed and the appeal filed by the Revenue is dismissed.

Order pronounced in the open Court on 5th July, 2024.

Sd/-	**Sd/-**
(ASHTA CHANDRA)	(R. K. PANDA)
JUDICIAL MEMBER	VICE PRESIDENT

पुणे Pune; दिनांक Dated : 5th July, 2024
GCVSR

<u>आदेश की प्रतिलिपि अग्रेषित/Copy of the Order is forwarded to</u>:

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent
3. The concerned Pr.CIT, Pune
4. DR, ITAT, 'A' Bench, Pune
5. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण ,पुणे
/ ITAT, Pune

S.No.	Details	Date	Initials	Designation
1	Draft dictated on	01.07.2024		Sr. PS/PS
2	Draft placed before author	03.07.2024		Sr. PS/PS
3	Draft proposed & placed before the Second Member			JM/AM
4	Draft discussed/approved by Second Member			AM/AM
5	Approved Draft comes to the Sr. PS/PS			Sr. PS/PS
6	Kept for pronouncement on			Sr. PS/PS
7	Date of uploading of Order			Sr. PS/PS
8	File sent to Bench Clerk			Sr. PS/PS
9	Date on which the file goes to the Head Clerk			
10	Date on which file goes to the A.R.			
11	Date of Dispatch of order			