



**IN THE INCOME TAX APPELLATE TRIBUNAL,  
CUTTACK BENCH, CUTTACK**

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER  
AND  
MANISH AGARWAL, ACCOUNTANT MEMBER**

**ITA No.517/CTK/2024**  
Assessment Year : 2013-14

Jagannath Sahoo S/O. Sridhar Sahoo, At-Kalia Devi Sahi, near Dakhina Kali Temple, PO/PS; /Dist: Puri	Vs.	Income Tax Officer, Puri Ward, Puri
PAN/GIR No.DJQPS 1301 J		

Assessee by : Shri P.K.Mishra, Adv  
Revenue by : Shri S.C.Mohanty, Sr DR

**Date of Hearing : 31/12/2024**  
**Date of Pronouncement : 31/12/2024**

**ORDER**

**Per Bench**

This is an appeal filed by the assessee against the order of the Id CIT(A), NFAC, Delhi dated 3.7.2024 in Appeal No. CIT(A), Bhubaneswar-2/10251/2019-20 for the assessment year 2013-14.

2. Shri P.K.Mishra, Id AR appeared for the assessee and Shri S.C.Mohanty, Sr. DR appeared for the revenue.

3. The assessee has taken following grounds of appeal:

"1. For that, the learned CIT(A) has committed gross error of law as well as of fact in not providing sufficient reasonable opportunity of

hearing and in dismissing the appeal of the Appellant, by upholding the addition made by the learned A.O., particularly when, the very initiation of reassessment proceeding, itself is without jurisdiction and without the authority of law, as such, it being not sustainable in the eye of law, needs to be quashed in the interest of justice.

2. For that, the learned Assessing officer as well as the learned CIT(A) have committed gross error of law as well as of fact in making addition of Rs.36,50,000.00, ignoring the explanation of the Appellant that, the total deposits made in the bank are arising out of agricultural income and sale of land, as such, the impugned deposits made in the bank account do not constitute income in the hand of the Assessee, as such, the impugned addition made by the learned A.O. and confirmed by the learned CIT(A), being not sustainable in the eye of law, needs to be deleted in the interest of justice.

3. For that, when the impugned addition has been made by the learned A.O., Ignoring the explanation of the Assessee and without providing sufficient effective opportunity of being heard to the Appellant to substantiate it, the learned CIT(A) should have deleted the addition of Rs. 36,50,000.00, instead of confirming it in the interest of justice.

4. For that, the addition of Rs.36,50,000.00 made by the learned A.O., treating the bank deposits as undisclosed income is completely wrong, illegal and not sustainable, hence needs to be deleted in the interest of justice.”

4. Ground No.1 relates to the legal issue that reassessment proceedings were completed without jurisdiction i.e without issue of notice u/s.143(2) of the Act as prescribed under law.

5. During the course of hearing, Id AR submits that in the instant case, the return of income in response to notice u/s.148 of the Act was filed by the assessee on 12.9.2019 and the reassessment was completed vide order dated 5.12.2019. As per Id AR, after filing the return of income, no notice u/s.143(2) of the Act was issued through e-filing portal, which is

mandatory in terms of instruction issued by CBDT vide No.,01/2018 dated 12<sup>th</sup> February, 2018. He, therefore, prayed that entire proceedings deserve to be held as bad in law and without jurisdiction as no notice u/s.143(2) of the Act was issued.

6. In reply, Id Sr DR filed an email received from the Income Tax Officer, Puri dated 27.12.2024, wherein, the Assessing Officer has attached the certified copy of notice u/s.143(2) issued alongwith evidence of service through Speed Post. He thus submits that once the notice u/s.143(2) of the Act is issued, the proceedings completed deserves to be upheld.

7. We have considered the rival submissions and perused the record of the case. Admittedly, in this case, no notice u/s.143(2) of the Act was issued through e-filing portal. As per CBDT Instruction No.1 dated 12<sup>th</sup> February, 2018, it has become mandatory that except for search related assessments, proceedings in other pending scrutiny assessment cases shall be conducted only through the "E-Proceedings" functionality in ITBA/E-filing. The relevant instruction dated 12<sup>th</sup> February, 2018 containing such directions are reproduced hereunder:

Instruction No. 2.1/2018

Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Direct Taxes

North Block, New Delhi, the 12<sup>th</sup> of February, 2018

Subject: Conduct of Assessment Proceedings in scrutiny cases electronically-regd.-

Sub-section (23C) of Section 2 of the Income-tax Act, 1961 (Act), applicable from 01.06.2016, provides that "hearing" includes communication of data and documents through electronic mode. Accordingly to facilitate conduct of assessment proceedings electronically, vide letter dated 23.06.2017, in file of even number, Board had issued a revised format of notice(s) under section 143(2) of the Act. Para 3 of these notice(s) provided that assessment proceedings in cases selected for scrutiny would be conducted electronically in 'E-Proceeding' facility through assessee's account in E-filing website of Income-tax Department.

2. In accordance with the procedure outlined in revised 143(2) notice(s) for conduct of assessment proceedings electronically, it is hereby directed that except for search related assessments, proceedings in other pending scrutiny assessment cases shall be conducted only through the 'E-Proceeding' functionality in ITBA/E-filing. However, in cases where the concerned assessee objects to conduct of assessment proceedings electronically through the 'E-Proceeding' facility, such cases, for the time-being, may be kept on hold.

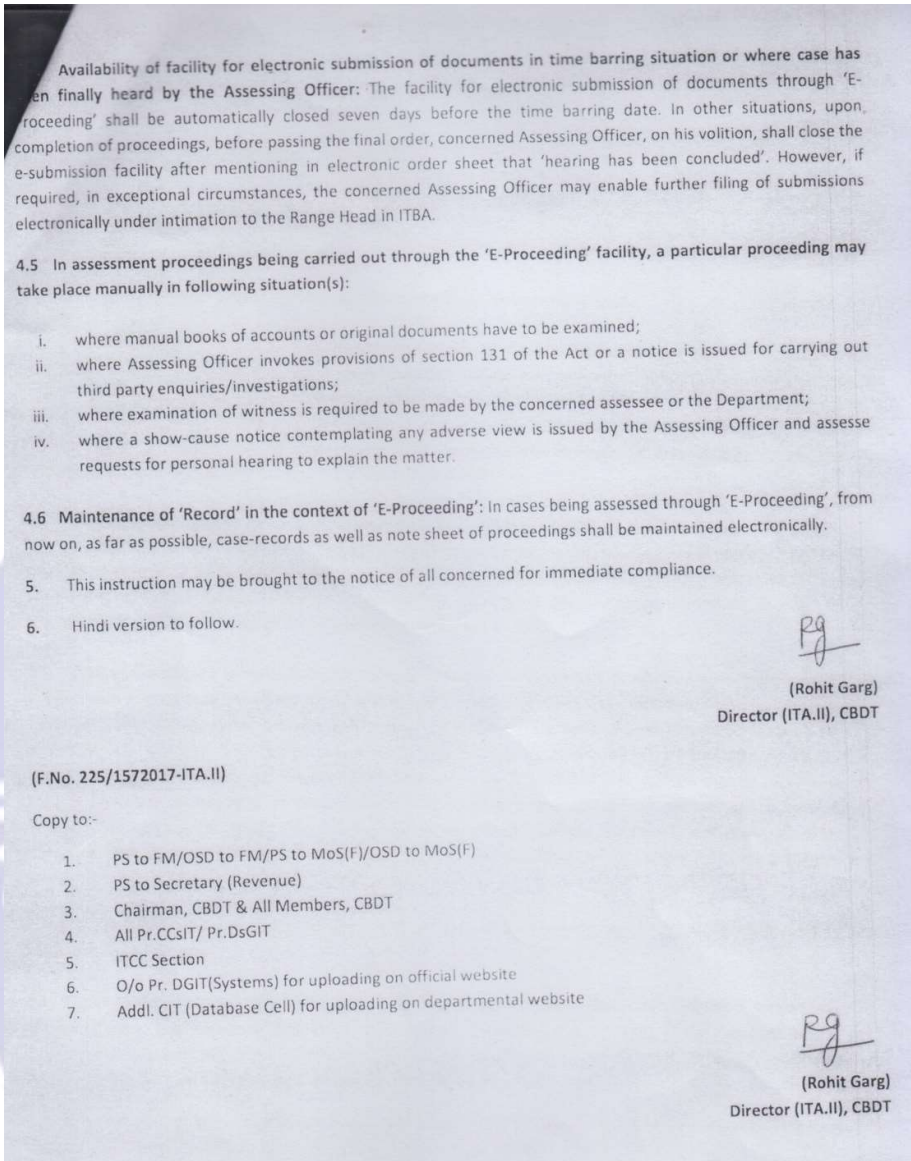
3. Further, considering the situation that some of the stations have limited bandwidth, being VSAT stations and stations with limited capacity where bandwidth is in the process of being upgraded, it has been decided that till 31.03.2018, such stations, in accordance with target stipulated in Central Action Plan for financial year 2017-18, may undertake and complete only ten percent scrutiny cases (which are getting barred by limitation on 31.12.2018) having the potential to effect recovery during the current year itself. The list of such stations shall be specified by the Pr. DGIT(Systems). Accordingly, at these stations, till 31.03.2018, the assessment proceedings in cases to be completed as per Central Action Plan target, may be conducted manually if e-assessment is not possible. It is reiterated that at other stations covered under para 2 above, subject to exceptions mentioned therein, the assessments would be conducted electronically only.

4. Some of the important procedural aspects while conducting assessment proceedings through 'E-Proceeding' are as under:

4.1 **Enquiry before assessment in electronic mode:** For enquiries before assessment in terms of section 142(1)(ii) of the Act, notice shall be issued electronically and delivered upon the assessee in his 'E-Filing' account. While filing the response electronically in compliance with notice under section 142(1)(ii) of the Act, the concerned assessee shall verify it in the manner prescribed under Rule 14 of Income-tax Rules, 1962.

4.2 **Use of digital signature by Assessing Officer:** All departmental orders/communications /notices being issued to the assessee through the 'e-Proceeding' facility are to be signed digitally by the Assessing Officer.

4.3 **Time for compliance:** Online submissions may be filed till the office hours on the date stipulated for compliance.



8. From the perusal of the aforesaid instruction, it is clear that the CBDT has mandated that after the issue of this instruction, all the notices should be sent through 'E-Proceedings' functionality in ITBA/E-filing. However, in the instant case, the Assessing Officer has not sent notice u/s.143(2) in E-Proceedings functionality/ITBA/E-filing but sent the same through physical mode via Speed Post. Therefore, there was no valid

issuance of notice u/s.143(2) of the Act. Once the notice u/s.143(2) is not validly issued, consequent proceedings cannot be held as valid. In this regard, reliance on the judgement of Hon'ble Supreme Court in the case of Hotel Blue Moon [2010] 321 ITR 362 (SC), wherein the Hon'ble Supreme Court has held that the issue of notice u/s. 143(2) of the I.T. Act is mandatory and not procedural and if the notice is not served within the prescribed period, the assessment order is invalid. Respectfully following the judgment of Hon'ble Supreme Court in the case of Hotel Blue Moon (supra) and looking to the fact that notice u/s.143(2) was not issued as per the instruction of CBDT (supra), therefore, the reassessment order dated 5.12.20190 is quashed being completed without jurisdiction. Consequently, Ground No.1 of the assessee stands allowed.

9. Since, we have quashed the reassessment order while adjudicating Ground No.1 of appeal, other grounds of appeal taken by the assessee are not adjudicated.

10. In the result, appeal of the assessee stands allowed.

Order dictated and pronounced in the open court on 31/12/2024.

Sd/-  
**(George Mathan)**  
**JUDICIAL MEMBER**

sd/-  
**(Manish Agarwal)**  
**ACCOUNTANT MEMBER**

Cuttack; Dated 31/12/2024  
B.K.Parida, SPS (OS)

**Copy of the Order forwarded to :**

1. The appellant: Jagannath Sahoo S/O.  
Sridhar Sahoo, At-Kalia Devi Sahi, near  
Dakhina Kali Temple, PO/PS; /Dist: Puri
2. The Respondent: Income Tax Officer, Puri  
Ward, Puri
3. The CIT(A)- NFAC, Delhi
4. Pr.CIT,
5. DR, ITAT,
6. Guard file.  
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