

**IN THE INCOME TAX APPELLATE TRIBUNAL
[DELHI BENCH: 'C' NEW DELHI]**

**BEFORE SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER
AND**

SHRI NAVEEN CHANDRA, ACCOUNTANT MEMBER

I.T.A. No. 1721/DEL/2012 (A.Y. 2002-03)

M/s Hopewin Admark & Consultancy Services Private Limited, 39/2068, Room No. 315, Dhaka Chambers, Nai Wala, Karol Bagh, New Delhi. PAN No.AAACH6960P (APPELLANT)	Vs.	Income Tax Officer, Ward-12(4), New Delhi. (RESPONDENT)
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I.T.A. No. 564/DEL/2019 (A.Y. 2002-03)

M/s Hopewin Admark & Consultancy Services Private Limited, 39/2068, Room No. 315, Dhaka Chambers, Nai Wala, Karol Bagh, New Delhi. PAN No. AAACH6960P (APPELLANT)	Vs.	Income Tax Officer, Ward-11(2), New Delhi. (RESPONDENT)
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Assessee by :	Shri Deepak Ostwal, CA & Shri Vishal Agarwal, Adv.
Department by:	Shri Om Prakash, Sr. DR

Date of Hearing	01.04.2025
Date of Pronouncement	09 .04.2025

ORDER

PER YOGESH KUMAR U.S., JM

The above appeals are filed by the Assessee challenging the order of the Ld. CIT(Appeals) dated 16/03/2012 on the quantum and order dated 26/12/2018 on the penalty issued u/s 271(1)(c) of the Income Tax Act, 1961 ('Act' for short). The Assessee has raised the additional grounds of appeal in the quantum appeal which reads as under: -

“On the facts and circumstances of the case and in law, Ld. AO erred by framing the assessment without issuance of notice u/s 143(2) of the Act. The re-assessment is illegal and without jurisdictional and is liable to be quashed.”

2. The Ld. Counsel for the Assessee vehemently submitted that no notice u/s 143(2) of the Income Tax Act, 1961 was issued during the proceedings u/s 148 of the Act, therefore, submitted that mandatory procedure prescribed under the Act was not followed. Hence, initiation of reassessment proceedings and the assessment order are *void ab initio*. The Ld. Counsel has relied on several judicial precedents to support his arguments.

3. Per contra, the Ld. DR submitted that the notice u/s 143(3) of the Act has been duly issued on the Assessee and Assessee has participated in the assessment proceedings, therefore, relying on the orders of the lower authorities sought for dismissal of the appeal.

4. We have heard the parties and perused the material on record. It is the specific contention of the Ld. AR that no notice u/s 143(2) of the Act has been issued to the Assessee. The Ld. Counsel has also produced the order sheet and also the copy of the speed post booking list. On going through the order sheet, it is found that the Assessing Officer has mentioned the service of notice u/s 148 of the Act through speed post. But, nowhere in the order sheet it is mentioned that notice u/s 143(2) of the Act has been issued for the year under consideration through speed. It is found that a notice u/s 143(2) of the Act has been mentioned to have been issued to the Assessee for the AY 2007-08 and not for the year under consideration i.e. AY 2002-03. In the absence of any document produced by the Department to prove that the notice u/s 143(2) of

the Act has been issued for AY 2002-03, we are compelled to form an opinion that no notice u/s 143(2) has been issued to the Assessee for the year under consideration and without issuing the notice u/s 143(2) of the Act, the impugned assessment order has been framed by the Assessing Officer. Thus, the assessment order is liable to be set aside. Accordingly, we allow additional grounds of appeal of the Assessee and quash the assessment order dated 23/12/2019 passed u/s 147/143(3) of the Act. As we have allowed the additional grounds and quashed the assessment order, other grounds of appeal of the Assessee on merits requires no adjudication.

5. In the result, appeal of the Assessee in ITA No.1721/Del/2012 is partly allowed.

6. Since we have allowed the quantum appeal in ITA No.1721/Del/2012 by setting aside the assessment order, the order of penalty passed consequent to the assessment order is also liable to be quashed. Accordingly, the order of penalty passed u/s

271(1)(c) of the Act and the impugned order of the CIT(A) confirming the order of penalty are set aside.

7. In the result, appeal in ITA No.564/Del/2019 is allowed.

Order pronounced in the open court on: **09 /04/2025**

Sd/-

**(NAVEEN CHANDRA)
ACCOUNTANT MEMBER**

Sd/-

**(YOGESH KUMAR U.S.)
JUDICIAL MEMBER**

Dated: 09/04/2025

**Kavita/R. N, Sr. PS*

Copy forwarded to:-

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI

