

आयकर अपीलीय अधिकरण न्यायपीठ "एक-सदस्य" मामला रायपुर में

**IN THE INCOME TAX APPELLATE TRIBUNAL
RAIPUR BENCH "SMC", RAIPUR**

**श्री पार्थ सारथी चौधरी, न्यायिक सदस्य के समक्ष
BEFORE SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER**

आयकर अपील सं./ITA No.259/RPR/2025

निर्धारण वर्ष / Assessment Year : 2016-17

Smt. Basanti Bai Agrawal
Proprietor: Shri Narayan Rice Industries,
Main Road, Samhar B.O, Samhar,
P.O. Bagbahra, Dist.: Mahasamund-493 449
PAN: ACOPA8043K

.....अपीलार्थी / Appellant

बनाम / V/s.

The Income Tax Officer,
Ward-Mahasamund (C.G.)

.....प्रत्यर्थी / Respondent

Assessee by : Shri Veekaas S Sharma, CA
Revenue by : Dr. Priyanka Patel, Sr. DR

सुनवाई की तारीख / Date of Hearing : 19.06.2025
घोषणा की तारीख / Date of Pronouncement : 23.06.2025

आदेश / ORDER**PER PARTHA SARATHI CHAUDHURY, JM**

This appeal preferred by the assessee emanates from the order of the Ld.CIT(Appeals)/NFAC, dated 10.02.2025 for the assessment year 2016-17 as per the following grounds of appeal:

“Concised Grounds:

1. Assessment is void-ab-initio as the notice issued u/s.143(2) was neither digitally nor manually signed, making it a non-est and invalid document in law.
2. Assessment completed without service of a valid notice u/s.143(2) renders the proceedings and the addition of Rs.8,17,218/- illegal and liable to be quashed.
3. The Learned A.O has erred in invoking Section 145(3) without pointing out specific defects in books of account.
4. Disallowance of Rs.8,04,705/-estimated @25% of purchases is based on suspicion and not based on credible evidence, hence, unsustainable in law.

5. Modified Ground:

Addition of Rs.8,04,705/- is unjustified as corresponding sales are accepted, proving genuineness of purchases.

6. Proceedings are vitiated by the vice of borrowed satisfaction inasmuch as the Ld. AO relied solely on third-party statements without independent verification, making the disallowance illegal.

7. Addition of Rs.8,04,705/- is bad in law as the Ld. A.O failed to provide opportunity for cross-examination of statements recorded u/s.131 that formed the basis of addition.

8. Disallowance made without confronting the assessee with brokers' statements violating Section 142(3) and principles of natural justice is liable to be deleted.

9. Modified Ground:

Purchases were genuine and supported by verifiable documents, yet held as bogus without proper appreciation of evidences produced by the assessee making the addition of Rs.8,04,705/- liable to be deleted.

10. Disallowance of Rs.12,513/- being 20% of vehicle expense is arbitrary and made merely on non-maintenance of logbook without any evidence of personal use is liable to be deleted.

11. The Appellant craves leave to add, amend, alter vary and / or withdraw any or all the above grounds of Appeal.”

2. The assessee has also placed on record additional ground of appeal and relying on the judgment of the Hon'ble Supreme court in the case of **National Thermal Power Company Ltd. Ltd. Vs. CIT (1998) 229 ITR 383 (SC)**, has prayed before the Tribunal for admission of the same which goes to the root of the matter. The additional ground of appeal raised by the assessee reads as follows:

“Assessment framed u/s.143(3) by the Ld. ITO, Mahasamund is without jurisdiction as jurisdiction vested with the Ld. DCIT/ACIT-3(1), Raipur in view of Section 143(2) read with Section 2(7A) read with Section 120 read with Notification No.1/2014 dated 15.11.2014 issued by the Ld. JCIT, Range-3, Raipur, rendering entire assessment illegal and void-ab-initio being inconsistent with statutory prescription.”

That since the additional ground raised by the assessee is the ground challenging the validity of the jurisdiction of the A.O framing the impugned assessment, therefore, such ground goes to the root of the matter since inherent lack of jurisdiction is incurable and is covered by

the aforesaid judgment of the Hon'ble Apex Court (supra) and therefore, the same is admitted for adjudication.

3. In this regard, the Ld. Counsel for the assessee opened his argument by demonstrating that the notice u/s. 143(2) of the Income Tax Act, 1961 (for short 'the Act') for the relevant A.Y. 2016-17, dated 25.09.2017 had been issued by the ITO, Ward-Mahasamund. That similarly, the assessment order was completed dated 22.12.2018 by the ITO, Ward-Mahasamund. It is the contention of the Ld. Counsel that such issuance of notice u/s. 143(2) of the Act and subsequent framing of assessment order u/s. 143(3) of the Act by the ITO, Ward- Mahasamund suffers from lack of jurisdiction in the case of the assessee in view of **Notification No.1/2014-15, dated 15.11.2014**. That for the sake of completeness, the said notification issued by the Department of Revenue, Ministry of Finance, Government of India is made part of this order and extracted as follows:



Government of India

Ministry of Finance: Department of Revenue

Office of the Joint Commissioner of Income Tax, Range-3

Ground Floor, Central Revenue Building, Civil Lines, Raipur, (C.G.)

NOTIFICATION : 1/2014-15**DATED 15/11/2014**

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 Notification No. 1/2014-15 dated 15/11/2014 by the Commissioner of Income Tax-1 , Raipur in super cession of all the existing notifications on the subject and all other power enabling me in this behalf, I , Joint Commissioner of Income tax, Range-3, Raipur hereby directs that the Assessing Officers mention in Column (2) of the schedule below shall exercise and perform the functions under the Income Tax Act, 1961, Wealth Tax Act, 1957, in respect of such cases or classes of cases (Specified in the corresponding entries in Col. 3 of the said schedule) of all such persons or classes of persons specified in the Col. No. 3 of the said schedule in such territorial areas as specified in the corresponding Col. No. 3 in respect of all incomes or classes of incomes.

2 This order shall take effect from 15/11/2014.

SCHEDULE

1	2	3
1.	Dy./ Asstt. Commissioner of Income Tax- 3(1), Raipur	<p>1. All persons being companies registered under the Companies Act, 1956 and having their registered office falling within the territorial jurisdiction of the following Assessing Officers of Range-3, Raipur</p> <ol style="list-style-type: none"> 1. ITO 3(1), Raipur 2. ITO 3(2), Raipur 3. ITO 3(3), Raipur 4. ITO 3(4), Raipur 5. ITO Mahasamund <p>Whose any one of the last three returns of income as on 1st April 2014 and as on 1st April of any subsequent F.Y shows total income /Loss of above Rs.15 lakh.</p> <p>2. The directors of the companies mentioned at (1) above.</p> <p>3. All persons being other than companies deriving income from business or profession and whose principal place of business is within the territorial jurisdiction of the following Assessing</p>

		<p>Officers of Range-3, Raipur</p> <ol style="list-style-type: none"> a. ITO 3(1), Raipur b. ITO 3(2), Raipur c. ITO 3(3), Raipur d. ITO 3(4), Raipur e. ITO Mahasamund <p>And whose any one of the last three returns of income as on 1st April 2014 and as on 1st April of any subsequent F.Y shows total income /Loss of above Rs.10 lakh.</p> <p>4. All persons being other than companies deriving income from sources other than income from business or profession and residing within the territorial jurisdiction of the following Assessing Officers of Range-3, Raipur</p> <ol style="list-style-type: none"> a. ITO 3(1), Raipur b. ITO 3(2), Raipur c. ITO 3(3), Raipur d. ITO 3(4), Raipur e. ITO Mahasamund <p>And whose any one of the last three returns of income as on 1st April 2014 and as on 1st April of any subsequent F.Y shows total income /Loss of above Rs.10 lakh.</p> <p>5. All persons that may be assigned u/s 127 of the I.T. Act 1961.</p>
2.	ITO, 3(1), Raipur	<p>1. All persons being companies registered under the Companies Act, 1956 and having their registered office falling within the territorial jurisdiction of the following Assessing Officers of Range-3, Raipur</p> <ol style="list-style-type: none"> b. ITO 3(1), Raipur c. ITO 3(2), Raipur d. ITO 3(3), Raipur, e. ITO 3(4), Raipur <p>And whose none of the last three returns of income as on 1st April 2014 and as on 1st April of any subsequent F.Y shows total income /Loss of Rs.15 lakh or less.</p> <p>2. The directors of the companies mentioned at (1) above.</p> <p>6. All cases of salaried employees of the State Government and Public Sector Unit wholly or partly owned by the State Government residing in Raipur district whose fifth letter of their PAN is from A to D.</p> <p>7. All persons being other than companies deriving income from business or profession and other than those assessable by</p>

		<p>DCIT/ACIT 3(1), Raipur and whose principal place of business is within the territorial area detailed as under:</p> <p>i. Areas falling under the left side of G.E Road starting from Shastri Chowk, upto the Municipal Limit towards Arang passing through Bhagat singh chowk, Telibandha, Magneto Mall .</p> <p>ii. Right side of the road starting from Sashtri Chowk upto Katchari Chowk.</p> <p>iii. Right side of the road starting from Katchari Chowk passing through Jeevanbima Marg, Avantibai Chowk, over bridge of Mova upto the Municipal limit towards Balodabazar covering Daldalseoni, Saddu, Shankarnagar etc.</p> <p>8. All persons being other than companies deriving income from sources other than income from business or profession and other than those assessable by DCIT/ACIT 3(1),Raipur and residing within the territorial area detailed as under:</p> <p>i. Areas falling under the left side of G.E Road starting from Shastri Chowk, upto the Municipal Limit towards Arang passing through Bhagat singh chowk, Telibandha, Magneto Mall .</p> <p>ii. Right side of the road starting from Sashtri Chowk upto Katchari Chowk.</p> <p>iii. Right side of the road starting from Katchari Chowk passing through Jeevanbima Marg, Avantibai Chowk, over bridge of Mova upto the Municipal limit towards Balodabazar covering Daldalseoni, Saddu, Shankarnagar etc.</p> <p>9. All cases that may be assigned under section 127 of the IT Act 1961.</p> <p>10. All the Residual area of the Range-1, Raipur which is not assigned to any other ITO of Range-3, Raipur</p>
	ITO 3(2), Raipur	<p>1. All cases of salaried employees of the Central Government Department and Public Sector Unit wholly or partly owned by the Central Government residing in Raipur district whose fifth letter of the PAN is from E to L.</p> <p>2. All persons being other than companies deriving income from business or profession and other than those assessable by DCIT/ACIT 3(1), Raipur and whose principal place of business is within the territorial area detailed as under:</p> <p>i. Areas falling under the Right side of G.E Road starting from Ambedkar Statue opposit Collectarate upto the Municipal Limit towards Aarang passing through Bhagat singh chowk,</p>

		<p>Telibandha, 36 City Mall .</p> <p>ii. Left side of the road starting from Ambedkar Statue opposite Collectorate up to Kali Mandir covering Raj Bhawan, Income tax Office.</p> <p>iii. Left side of the road from Kali Mandir upto Kalibadi Chowk passing through Madhusudan Chowk</p> <p>iv. Left side of the road starting from Kalibadi Chowk upto the Municipal Limit towards Abhanpur passing through Sidharth chowk, Pachpedi Naka, Lalpur etc.</p> <p>2. All persons being other than companies deriving income from sources other than income from business or profession and other than those assessable by DCIT/ACIT 3(1),Raipur and residing within the territorial area detailed as under:</p> <p>i. Areas falling under the Right side of G.E Road starting from Ambedkar Statue opposit Collectorate upto the Municipal Limit towards Aarang passing through Bhagat singh chowk, Telibandha, 36 City Mall .</p> <p>ii. Left side of the road starting from Ambedkar Statue opposite Collectorate up to Kali Mandir covering Raj Bhawan, Income tax Office.</p> <p>iii. Left side of the road from Kali Mandir upto Kalibadi Chowk passing through Madhusudan Chowk</p> <p>iv. Left side of the road starting from Kalibadi Chowk upto the Municipal Limit towards Abhanpur passing through Sidharth chowk, Pachpedi Naka, Lalpur etc.</p> <p>3. All cases that may be assigned under section 127 of the IT Act 1961.</p>
4	ITO 3(3), Raipur	<p>1. All cases of salaried employees of the Central Government Department and Public Sector Unit wholly or partly owned by the Central Government residing in Raipur district whose fifth letter of the PAN is from M to Q.</p> <p>2. All persons being other than companies deriving income from business or profession and other than those assessable by DCIT/ACIT 3(1), Raipur and whose principal place of business is within the territorial area between Dhamtari narrow gauge track and Vishakhapatanam broad gauge railway track starting from Raipur Rail way station upto their intersection of Jeewanbima Marg (Pandri) covering Raman mandir ward, Timber Market, Devendra Nagar, Pandri Cloth Market, FCI Godown.</p>

		<p>3. All persons being other than companies deriving income from sources other than income from business or profession and other than those assessable by DCIT/ACIT 3(1),Raipur and residing within the territorial area between Dhamtari narrow gauge track and Vishakhapatanam broad gauge railway track starting from Raipur Rail way station upto their intersection of Jeewanbima Marg (Pandri) covering Raman mandir ward, Timber Market, Devendra Nagar, Pandri Cloth Market, FCI Godown.</p> <p>4. All cases that may be assigned under section 127 of the Income Tax Act, 1961.</p>
5	ITO-3(4) Raipur	<p>1. All cases of salaried employees of the Central Government and Public Sector Unit wholly or partly owned by the Central Government residing in Raipur district whose fifth letter of the PAN is from R to Z.</p> <p>2. All persons being other than companies deriving income from business or profession and other than those assessable by DCIT/ACIT 3(1), Raipur and whose principal place of business is within the territorial area detailed as under:</p> <p>i. Areas falling under the Right side of Road starting from Jaistambh Chowk upto Dhamtari Narrow gauge railway track passing through Durga College, Moudhapara, fafadih Chowk.</p> <p>ii. Left side of the GE road starting from Jaistambh Chowk upto Shastri Chowk.</p> <p>iii. Left side of the road starting from Sashtri Chowk upto Katchari Chowk .</p> <p>iv. Left side of the road starting from Katchari Chowk passing through Jeevanbima Marg, upto Dhamtari Narrow gauge railway track at Pandri covering Pagaria Complex, Bus stand , Khalsa School,etc.</p> <p>v.Right side of the Dhamtari Narrow gauge railway track from Fafadih to Pandri.</p> <p>3. All persons being other than companies deriving income from sources other than income from business or profession and other than those assessable by DCIT/ACIT 3(1),Raipur and residing within the territorial area detailed as under:</p> <p>i. Areas falling under the Right side of Road starting from Jaistambh Chowk upto Dhamtari Narrow gauge railway track passing through Durga College, Moudhapara, fafadih Chowk.</p> <p>ii. Left side of the GE road starting from Jaistambh Chowk upto Shastri Chowk.</p> <p>iii. Left side of the road starting from Sashtri Chowk upto Katchari Chowk .</p> <p>iv. Left side of the road starting from Katchari Chowk passing through Jeevanbima Marg, upto Dhamtari Narrow gauge railway track at Pandri covering Pagaria Complex, Bus stand , Khalsa</p>

		School,etc. v.Right side of the Dhamtari Narrow gauge railway track from Fafadih to Pandri.
		4. All cases that may be assigned under section 127 of the Income Tax Act, 1961.
6	ITO Mahasamund	1. All persons being companies registered under the Companies Act, 1956 and having their registered office falling within the territorial area of Mahasamund District And whose none of the last three returns of income as on 1 st April 2014 and as on 1 st April of any subsequent F.Y shows total income /Loss of above Rs.15 lakh. 2. The directors of the companies mentioned at (1) above. 3. All persons being other than companies deriving income from business or profession and other than those assessable by DCIT/ACIT 3(1), Raipur and whose principal place of business is within the territorial area of Mahasamund District 4. All persons being other than companies deriving income from sources other than income from business or profession and other than those assessable by DCIT/ACIT 3(1), Raipur and residing within the territorial area of Mahasamund District. 5. All cases that may be assigned under section 127 of the Income Tax Act, 1961.

(D.K. JAIN)
Joint Commissioner of Income tax,,
Range-3, Raipur

Copy Forwarded to:

1. The Pr. Chief Commissioner of Income Tax (CCA), Bhopal
2. The Director General of Income Tax (Inv.), Bhopal
3. The Chief Commissioner of Income Tax, Raipur
4. The Pr. CIT/CIT-1, Pr.CIT/CIT-2, Raipur/ Pr. CIT/CIT, Bilaspur.
5. The Pr. DIT/DIT(Inv), Raipur
6. The CIT(A)-1/ The CIT(A)-2/ The CIT(A), Bilaspur.
7. The CIT(CO)/ The CIT(Audit), Bhopal
8. The Addl./Jt. Commissioner of Income Tax, Range-1,2,3,4, Raipur, 1,2,Bhilai , Range-1,2, Bilaspur, Range Korba.
9. All ACsIT, Raipur/Bhilai.
10. All ITOs/TROs in Raipur/Bhilai Charge.
11. The Chamber of Commerce Raipur/Bhilai-Durg.
12. The Income-tax Bar Association, Raipur/Bhilai/Rajnandgaon/Dhamtri/Jagdarpur.
13. Notice Board.

Joint Commissioner of Income tax,,
Range-3, Raipur

4. That referring to Column 1 & 2 in the Schedule part of the Notification, the Ld. Counsel contended that all persons being other than companies whose income in any one of the last three returns of income as on 1st April, 2014 and as on 1st April of any subsequent F.Y shows total income/loss of above Rs.10 lacs, in such scenario, the appropriate jurisdiction for framing assessment is with the Dy./Asstt. Commissioner of Income Tax-3(1), Raipur. That further, providing further explanation to the contention raised by the Ld. Counsel, he demonstrated from the Income Tax Return acknowledgement for A.Y.2016-17 that the total income that has been declared by the assessee was at Rs.10,27,636/- which was rounded of as per Section 288A of the Act at Rs.10,27,640/- which also gets displayed in the computation of total income. That further, the Ld. Counsel also submitted that so far as the assessment order is concerned, therein also, the ITO, Ward-Mahasamund had taken returned income of the assessee as per return of income filed a/w. computation at Rs.10,27,640/-. Therefore, it is crystal clear that so far the total income as per the return of income filed by the assessee was Rs.10 lacs and above and that as per the afore-stated Circular/Notification of the department, in such a case, the jurisdiction to exercise and perform any function under the Act with regard to such assesseees was vested with Dy./Asstt. Commissioner of Income Tax-3(1), Raipur. But since in the case of the assessee even though the return of income was filed above Rs.10 lacs, the

notice issued u/s. 143(2) of the Act and subsequent assessment framed u/s.143(3) of the Act by the ITO, Ward-Mahasamund was therefore without valid jurisdiction, hence, liable to be quashed.

5. The Ld. Sr. DR could not refute these facts on record and was not able to substantiate through any documentary evidence that the contention raised by the Ld. Counsel for the assessee was incorrect.

6. Having heard the contentions of the parties herein at length and after careful consideration of the legal issue at hand, I am of the considered view that the Ld. Counsel for the assessee has fairly demonstrated that the issuance of notice u/s. 143(2) of the Act by the ITO, Ward- Mahasamund and subsequent assessment framed u/s. 143(3) of the Act by the ITO, Ward Mahasamund suffers from lack of jurisdiction, hence liable to be quashed. It is established principle of law for any proceeding by the quasi-judicial authority as per the Act, it has to be performed within the parameter of valid jurisdiction. That as per the Circular/Notification of the department dated 15.11.2014 (supra), it has been clearly laid down that so far as the assessee are concerned who other than companies have filed return of income above Rs.10 lacs, in such case, the officer who has the rightful jurisdiction over such assessee is the Dy./ACIT-3(1), Raipur. Admittedly, as per the return of income, computation of income and even as per the assessment order, it had been

displayed that the return of income filed by the assessee was above Rs.10 lacs and to be more specific it was Rs.10,27,640/-. That in spite of such return of income filed, the assessment was framed and completed not by the Dy/ACIT-3(1), Raipur but by the ITO, Ward- Mahasamund who inherently lacked valid jurisdiction with regard to the assessee. That in exercise of quasi-judicial power as per the Act sans valid jurisdiction such an act has to be struck down as arbitrary, bad in law and void ab initio.

7. I take guidance from the judgment of the **Hon'ble High Court of Calcutta** in the case of **Pr. CIT-5, Kolkata Vs. Raghvendera Mohta, ITAT/51/2025, IA No.GA/1/2025, GA/2/2025, dated 05.05.2025** wherein the Hon'ble High Court of Calcutta held and observed as follows:

“5. The assessee preferred appeal before the learned Tribunal challenging the order passed by the Commissioner of Income Tax (Appeals)-10, Kolkata [CIT(A)] dated 26.9.2017. One of the grounds urged before the learned Tribunal was that the Assessing Officer, who passed the assessment order did not have jurisdiction over the case of the assessee and, therefore, the notice as well as the assessment order are bad in law. The learned Tribunal took note of the facts and circumstances of the case and found that the assessee filed its return of income declaring the income to be nil. Subsequently, notice under section 143(2) was issued on 10.9.2015 and notice under section 142(1) dated 13.6.2016 was issued along with the questionnaire. The assessee contended that the notices were without jurisdiction and relied upon section 120 of the Act. In this regard, the assessee referred to the notification issued by the CBDT in Instruction No.1 of 2011. The learned Tribunal took into consideration the facts of the case and found that the assessment has been framed by the Assessing Officer, who inherently lacks jurisdiction to do so.

6. The learned Tribunal took note of the decision of a Co-ordinate Bench of the learned Tribunal in the case of Bhagyalaxmi Conclave (P) Ltd. vs. DCIT dated 3.2.2021. Apart from other decisions and allowed the assessee's appeal. the revenue had challenged the order passed in the case of Bhagyalaxmi Conclave (P) Ltd. before this court in ITAT/221/2022 etc. and by a judgment reported in 2022 (12) TMI 1514, the appeal filed by the department was dismissed one of the questions framed is identical to the substantial questions of law suggested by the revenue in the instant case. Thus, we find that the learned Tribunal was right in allowing the assessee appeal and setting aside the order passed by the Assessing Officer on the ground of lack of inherent jurisdiction.

7. For the above reason, the appeal is dismissed and the substantial questions of law are answered against the revenue.”

8. Further, the **Hon'ble High Court of Calcutta** in the case of **Pr. Commissioner of Income Tax Vs. Shree Shoppers Ltd. (2023) NYPCTR 379 (Cal.)** on the same issue of validity of jurisdiction had held and observed as follows:

“4. The short issue which falls for consideration in the instant case is whether there is valid notice issued under Section 143(2) of the Act for commencing the scrutiny assessment. The Tribunal has noted the facts and rendered a finding that on the date when the case was selected for scrutiny, the authority who issued the notice namely, the Income Tax Officer, Ward No.9(4), Kolkata did not have jurisdiction and the jurisdiction was with the Deputy Commissioner of Income Tax. The following factual finding has been recorded by the Tribunal :

"Therefore, the legal ground stands to be admitted and the same relates to invalid notice issued u/s. 143(2) of the Act. It is a settled position of law that for carrying out the assessment proceedings u/s. 143(3) of the Act, the statutory requirement of serving of valid notice u/s. 143(2) of the Act is must and in absence thereof the subsequent proceedings

become invalid. In the case of assessee, the facts are that the assessee has declared income of Rs.48,47,180/- in the e-return filed on 26.09.2012. For selecting the case for scrutiny notice u/s. 143(2) of the Act was issued by ITO, Ward-9(4), Kolkata dated 23.09.2013. The Central Board of Direct Taxes (CBDT vide Instruction No.1/2011 supra) revised the monetary limit for issuing notice by ITO/DCs/ACs. Through this instruction it stated that in case of metro cities in case of corporates declare income above Rs.30 lakh the jurisdiction of such corporate assessee will lie with the DCs/ACs. It is not in dispute that as on the date of selecting the case for scrutiny, the very basis for having jurisdiction over the assessee is the returned income which was more than Rs.30 lakhs and the same was lying with the DCs/Acs but the notice u/s. 143(2) of the Act has been issued by ITO, Ward-9(4), Kolkata. It is true that subsequently the assessment has been framed by DCIT, Circle-9(2), Kolkata but the point in dispute is that on date of issuing a notice u/s. 143(2) of the Act, whether the ITO, Ward- 9(4), Kolkata was having a valid jurisdiction to issue such notice u/s. 143(2) of the Act."

5. The above factual position recorded by the Tribunal is not in dispute. Therefore, we are of the clear view that the Tribunal rightly allowed the assessee's appeal and quashed the scrutiny proceedings as defect in issuance of notice is incurable as it goes to the root of the matter."

9. Also, the Hon'ble High Court of Bombay in the case of **Ashok Devichand Jain Vs. Union of India, (2023) 151 taxmann.com 70 (Bombay)** on the similar issue had held and observed as follows:

"4. We have considered the affidavit in reply of one Mr. Suresh G. Kamble, ITO who had issued the notice under section 148 of the Act. Said Mr. Kamble, ITO, Ward 12(3)(1), Mumbai admits that such a defective notice has been issued but according to him, PAN of Petitioner was lying with ITO Ward (12)(3)(1), Mumbai and it was not feasible to migrate the PAN having returned of income exceeding Rs.30 lakhs to the charge of DCIT, Circle 12(3)(1), Mumbai, as the time available with the ITO 12(3)(1) was too short to migrate the PAN after obtaining administrative approval from the higher authorities by 31st March, 2019.

5. The notice under section 148 of the Act is jurisdictional notice and any inherent defect therein is not curable. In the facts of the case, notice having been issued by an officer who had no jurisdiction over the Petitioner, such notice in our view, has not been issued validly and is issued without authority in law.

6. In the circumstances, we have no hesitation in setting aside the notice dated 30th March, 2019.

7. Consequently, the order dated 18th November, 2019 rejecting peritition's objection is also quashed and set aside.

8. Petition disposed.

9. No order as to costs."

10. Further, the **ITAT, Raipur** in the case of **Shri Arun Agrawal Vs. ACIT-3(1), Raipur, ITA No.214/RPR/2023, dated 16.10.2023 for A.Y.2010-11**, on the similar issue had held and observed as follows:

"14. Be that as it may, I am of the view that as the assessment in the case of the assessee had been framed by the ACIT, Circle-3(1), Raipur, who in light of the CBDT Instruction No.1/2011 (supra) r.w. CBDT Instruction No.6/2011 (supra) was not vested with any jurisdiction for framing of assessment in the case of the assessee who had declared Nil income; therefore, the order so passed by him cannot be sustained and is liable to be struck down on the said count itself. Thus, the **Ground of Appeal No.1** raised by the assessee is allowed in terms of my aforesaid observations."

Therefore, it is obvious and trite that any action by the revenue authority without jurisdiction is bad in law, void ab initio and hence, liable to be struck down on the said count itself.

11. The issue is no more *res-integra* as per the judicial precedents that any right and liabilities specifically in a case of imposing liability for that matter whether it is income tax or any other financial burden on the assessee through legal dictate, the said action can only be pronounced as legally valid if it is exercised within parameter of correct jurisdiction.

12. Reverting to the facts of the present case as examined aforesaid, it is clearly evidenced that the return of income was filed by the assessee above Rs.10 lacs, for which, the jurisdiction was vested only with the Dy./ACIT-3(1), Raipur and not with ITO, Ward-Mahasamund. That since in the present case, the assessment has been framed u/s. 143(3) of the Act dated 22.12.2018 by the ITO, Ward-Mahasamund who lacked inherent valid jurisdiction, therefore, the same is held invalid, void ab initio, and the order of assessment is quashed.

13. That once the assessment order is quashed, then all other subsequent proceedings becomes non-est in the eyes of law.

14. As per the aforesaid terms even without going into the merits of the matter on this legal premise itself the appeal of the assessee is allowed. Since this legal ground is answered in favour of the assessee, therefore, all other grounds on merits including any other legal grounds if any, becomes academic only.

15. In the result, appeal of the assessee is allowed.

Order pronounced in open court on 23rd day of June, 2025.

Sd/-

(PARTHA SARATHI CHAUDHURY)

न्यायिक सदस्य/JUDICIAL MEMBER

रायपुर / Raipur; दिनांक / Dated : 23rd June, 2025.

SB, Sr. PS

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

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

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary

आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur