

**IN THE INCOME TAX APPELLATE TRIBUNAL,
DELHI BENCH: "SMC" NEW DELHI**

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER

ITA No.2854/Del/2025
Assessment Year: 2018-19

Sh. Riyaz, S/o-Shri Gulam Ahmad, A.K. Traders. H. No. 224/1, Vill. Juthiya Sadar, Rampur	Vs.	Income Tax Officer, Ward-1(3), Rampur
PAN: CEIPR3728A		
(Appellant)		(Respondent)

Assessee by	Sh. V. Raj Kumar, Adv.
Department by	Sh. Manoj Kumar, Sr. DR

Date of hearing	22.07.2025
Date of pronouncement	22.07.2025

ORDER

This assessee's appeal for assessment year 2018-19, arises against the Commissioner of Income Tax (Appeals)/National Faceless Appeal Centre [in short, the "CIT(A)/NFAC"], Delhi's DIN and order no. ITBA/NFAC/S/250/2024-25/1069340236(1), dated 03.10.2024 involving proceedings under section 147 r.w.s. 144 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act').

Heard both the parties. Case file perused.

2. For the reasons stated in the assessee's condonation averments, delay of 119 days in filing of instant appeal is hereby

condoned in light of Collector, Land & Acquisition vs. Mst. Katiji & Others (1987) 167 ITR 471 (SC).

3. Learned counsel representing assessee presses his first and foremost legal ground that both the lower authorities herein have erred in law and on facts in framing the impugned assessment dated 23rd March, 2023 and upheld in the lower appellate discussion, without issuing the mandatory section 143(2) notice despite the fact that the assessment order itself at page 3 indicates that the appellant had filed its return on 15.02.2023 in response to the section 148 notice. This clinching fact has gone unrebutted from the Revenue side. That being the case, I hereby quote ACIT Vs. Hotel Blue Moon [2010] 321 ITR 362 (SC) to conclude that such an assessment without issuing section 143(2) notice is not sustainable in law. Quashed accordingly.

All other pleadings on merits herein stand rendered academic.

4. This assessee's appeal is allowed.

Order pronounced in the open court on 22nd July, 2025

Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

Dated: 22nd July, 2025.

RK/-

Copy forwarded to:

1. Appellant

2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi