

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.395/RPR/2025

निर्धारण वर्ष / Assessment Year : 2016-17

Smt. Shobha Dubey
House No.143, Anand Nagar,
Raipur-492 001 (C.G.)
PAN: ACOPA8043K

.....अपीलार्थी / Appellant

बनाम / V/s.

The Income Tax Officer,
Ward-3(1), Raipur (C.G.)

.....प्रत्यर्थी / Respondent

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

सुनवाई की तारीख / Date of Hearing : 04.08.2025

घोषणा की तारीख / Date of Pronouncement : 04.08.2025

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

The captioned appeal preferred by the assessee emanates from the order of the Ld.CIT(Appeals)/NFAC, Delhi dated 03.04.2025 for the assessment year 2016-17 as per the grounds of appeal on record.

2. In this case, the assessee has filed both legal grounds as well as grounds on merits. The Ld. Counsel for the assessee submitted that he would assail the legal ground first and if the said legal ground is answered affirmative, then the grounds on merits shall become academic only.

3. The Ld. Counsel for the assessee assailing the legal ground submitted that in the present case, though the assessment has been completed u/s.143(3) of the Income Tax Act, 1961 (for short 'the Act'), however no valid notice u/s.143(2) of the Act has been served on the assessee since such notice is without any signature of the issuing authority hence, violative of Section 282A(1) of the Act. The copy of notice u/s.143(2) of the Act, dated 18.09.2017 has been annexed at Page 1 to 4 of the paper book which is extracted and made part of this order:



भारत सरकार/ GOVERNMENT OF INDIA
वित्त मंत्रालय/ MINISTRY OF FINANCE
आयकर विभाग/ INCOME TAX DEPARTMENT
OFFICE OF THE INCOME TAX OFFICER
WARD 3(1) RAIPUR

सेवा में/ To, SHOBHA DUBEY H NO.14 H NO.14 , ANAND NAGAR 492001 ,Chhattisgarh India			
स्थायी लेखा संख्या/ PAN: ACVPD0862C	निर्धारण वर्ष/ AY: 2016-17	नोटिस संख्या / Notice No.: ITBA/AST/S/143(2)/2017- 18/1006403172(1)	दिनांक/ Dated: 18/09/2017

आयकर अधिनियम, 1961 की धारा 143(2) के अन्तर्गत नोटिस
Notice under section 143(2) of the Income Tax Act, 1961

सीमित संवीक्षा (कम्प्यूटर आधारित संवीक्षा चयन)

Limited Scrutiny (Computer Aided Scrutiny Selection)

महोदय/महोदया/ मेसर्स,
Sir/ Madam/ M/s,

यह आपको सूचित किया जाता है कि कर निर्धारण वर्ष 2016-17 की आयकर विवरणी जो कि पावती संख्या 742060950310317 दिनांक 31/03/2017 को दाखिल किया गया था, सीमित संवीक्षा हेतु चयनित है।

This is for your kind information that the return of income for Assessment Year 2016-17 filed vide ack. no. 742060950310317 on 31/03/2017 has been selected for Scrutiny.

परीक्षण हेतु निम्नलिखित विषय चिन्हित हैं।

Following issue(s) have been identified for examination:

- Whether cash in hand shown in return of income is correct.
- उपरोक्त के सम्बन्ध में, मैं आप को उपर्युक्त आयकर विवरणी के समर्थन में दिनांक 10/10/2017 को 04:00 PM या उसके पहले कोई साक्ष्य/सूचना प्रस्तुत करने का अवसर प्रदान करता/करती हूँ।
In view of the above, I would like to give you an opportunity to produce any evidence/information which you feel is necessary in support of the said return of income on or before 10/10/2017 at 04:00 PM.
- उपरोक्त वर्णित साक्ष्य/ सूचना, आयकर विभाग की ई- फाइलिंग वेबसाइट में उपलब्ध 'ई- प्रोसीडिंग' सुविधा के माध्यम से अपने एकाउन्ट द्वारा प्रेषित करनी है। आगे की कार्यवाहियाँ भी इलेक्ट्रॉनिक (*) तरीके से संचालित की जाएँगी। ई प्रोसीडिंग की मुख्य विशेषताओं पर संक्षिप्त नोट संलग्न है।
The above mentioned evidence/information is to be furnished online electronically in 'E-Proceeding' facility through your account in e-Filing website of Income-tax Department. Further proceedings shall also be conducted electronically (*). A brief note on salient features of 'E-Proceeding' is enclosed.
- यदि आप कोई सूचना/ साक्ष्य, जैसा कि अनुच्छेद 2 में वर्णित है, नहीं देना चाहते हैं तो आपसे निवेदन है कि उपरोक्त दिनांक

Note: The date of digital signature (if any) may be taken as date of document
CENTRAL REVENUE BUILDING, RAI02, RAI03, RAI04, RAIPUR, Chhattisgarh, 492001
Email: RAIPUR.ITO3.1@INCOMETAX.GOV.IN,

ACVPD0862C- SHOBHA DUBEY
A.Y. 2016-17
ITBA/AST/S/143(2)/2017-18/1006403172(1)

10/10/2017 को या उसके पहले इलेक्ट्रॉनिक माध्यम से सूचित करें।

In case you do not wish to produce any evidence/information, as mentioned in para 2, you are requested to intimate the same electronically on or before 10/10/2017.

5. यदि आवश्यक हुआ तो बाद में निश्चित प्रश्नावली/सूचना का मांग पत्र या दस्तावेज भेजे जायेंगे।

Specific questionnaires/requisition of information or documents would be sent subsequently, if required.

6. यदि आयकर विभाग की ई-फाइलिंग वेबसाइट में आप का एकाउन्ट है तो अनुच्छेद (2) से (4) लागू है। जबतक आप के द्वारा इस प्रकार का एकाउन्ट नहीं बनाया जाता है, कर निर्धारण की कार्यवाहियों या तो ई-मेल के द्वारा या लिखित रूप से प्रस्तुत करना होगा (यदि ई-मेल उपलब्ध नहीं है)।

Para(s) (2) to (4) are applicable if you have an account in e-Filing website of Income-tax Department. Till such an account is created by you, assessment proceedings shall be carried out either through your e-mail account or manually (if e-mail is not available).

(* संलग्न नोट के अपवाद पर आधारित

(* Subject to exceptions as per the enclosed note

मुहर/Seal



भवदीय,

Yours faithfully,

AMRIT KUMAR
WARD 3(1) RAIPUR

ACVPD0862C- SHOBHA DUBEY
A.Y. 2016-17
ITBA/AST/S/143(2)/2017-18/1006403172(1)

ई- प्रोसेडिंग की मुख्य विशेषताएं
Salient features of 'E-Proceeding'

आयकर विभाग ने निर्धारण की कार्यवाही इलेक्ट्रॉनिक माध्यम से करने के लिए ई- गर्वनेंस के हिस्से के तौर पर ई- प्रोसेडिंग की सुविधा शुरू की है। यह विभाग एवं निर्धारती के मध्य इलेक्ट्रॉनिक माध्यम से निर्धारण की कार्यवाही के लिए आयकर कार्यालय जाने की जरूरत के बिना आवश्यकता के संप्रेषण का सहज माध्यम है। यह करदाता की मैत्रीपूर्ण सुविधा निर्धारती के लिए अनुपालन की मुश्किलों को कम कर देगा।

As part of e-governance initiative to facilitate conduct of assessment proceedings electronically, Income-tax Department has launched 'E-Proceeding' facility. It is a simple way of communication between the Department and assesses, through electronic means, without the necessity to visit Income-tax Office for conduct of assessment proceedings. This taxpayer friendly measure would substantially reduce the compliance burden for the assessee.

- निर्धारण कार्यवाही में ' ई- प्रोसेडिंग' ई- फाइलिंग वेबसाइट में निर्धारण अधिकारी से संबंधित निर्धारती के एकाउंट में पत्र (ओं), प्रश्नावली (यों), आदेश (शे) आदि के बाधारहित प्रवाह को सुनिश्चित करेगी। विभागीय पत्राचार प्राप्त करने के पश्चात् निर्धारती अपने संलग्नकों के साथ अपनी प्रतिक्रिया ई- फाइलिंग पोर्टल पर अपलोड कर सकेगा। निर्धारती द्वारा प्रस्तुत प्रतिक्रिया को निर्धारण अधिकारी द्वारा इलेक्ट्रॉनिक माध्यम से आयकर बिजनेस एप्लीकेशन (आई टी बी ए) मॉड्यूल पर देखा जाएगा। इसके अलावा यह करदाता के बहुमूल्य समय की बचत करते हुए निर्धारण प्रक्रिया के दौरान विभागीय पूछताछ पर प्रतिक्रिया देने में भी यह 24x7 कभी भी/ कहीं भी मदद उपलब्ध कराएगा। जिन करदाताओं का अब तक आयकर विभाग की ई- फाइलिंग वेबसाइट पर एकाउंट नहीं है, उनसे अनुरोध है कि वे ई- फाइलिंग वेबसाइट (www.incometaxindiaefiling.gov.in) पर साधारण निर्देशों का पालन करते हुए पंजीकृत कराएं।

In assessment proceeding, 'E-Proceeding' would enable seamless flow of Letter(s)/Notice(s), Questionnaire(s), Order(s) etc. from Assessing Officer to the concerned assessee's account in e-Filing website. On receipt of Departmental communication, assessee would be able to submit the response along with attachments by uploading the same, on e-Filing portal. The response submitted by the assessee would be viewed by the Assessing Officer electronically in Income Tax Business Application (ITBA) module. This would, besides saving precious time of the taxpayer, would also provide a 24X7 anytime/anywhere convenience to submit response to the Departmental queries in course of assessment proceedings. The taxpayers, who are not yet having an account on the e-Filing website of the Income-tax Department, are requested to get registered by following simple instructions in the e-Filing website (www.incometaxindiaefiling.gov.in).

- निर्धारती अपने ई- फाइलिंग पोर्टल के एकाउंट पर निर्धारण प्रक्रिया की कार्यवाही के दौरान किए गए सभी ई- सबमिशन(प्रस्तुती) की सूचनाएं ई- प्रोसेडिंग की सुविधा द्वारा संदर्भ एवं रिकॉर्ड के उद्देश्य से सुरक्षित रख सकते हैं।
Assesses would retain complete information of all e-submissions made during the course of assessment proceedings through 'E-Proceeding' facility for reference & record purpose in his e-Filing portal account
- निम्नांकित स्थितियों में सुनवाई/ दस्तावेजों का प्रेषण मैन्यूअली किया जा सकता है।
 - I. जहां लेखा की मैन्यूअल पुस्तकें या मूल दस्तावेजों की जांच की जानी हो।
 - II. जहां आयकर अधिनियम 1961 की धारा 131 के प्रावधानों को निर्धारण अधिकारी को लागू करना हों।
 - III. जहां संबंधित निर्धारती या विभाग द्वारा गवाह या साक्ष्य का परीक्षण आवश्यक हो।
 - IV. जहां किसी विरोधाभासी तथ्य पर कोई कारण बताओं नोटिस जारी किया गया है और निर्धारती ने मामले की व्याख्या के लिए व्यक्तिगत सुनवाई का अनुरोध किया हो।

ACVPD0862C- SHOBHA DU
A.Y. 201
ITBA/AST/S/143(2)/2017-18/100640317

Hearing/submission of document(s) may be conducted manually, if required, in following situation(s):

- I. where manual books of accounts or original documents have to be examined;
 - II. where Assessing Officer invokes provisions of section 131 of Income-tax Act, 1961;
 - III. where examination of witness is required to be made by the concerned assessee or the Department
 - IV. where a show-cause notice contemplating any adverse view is issued and assessee requests for personal hearing to explain the matter;
- निर्धारण कार्यवाहियों कागज के बिना होने के कारण यह पहल पर्यावरण के हित में है।

This initiative is environment friendly as assessment proceedings would become paperless.



4. That as discernible from the aforesaid notice u/s. 143(2) of the Act, there is no signature of the competent authority issuing the said notice. The name and designation is mentioned as Amrit Kumar, Ward-3(1), Raipur but neither there is any signature nor there is any seal of the jurisdictional officer and both the places of signature as well as seal in the aforesaid notice are left blank.

5. In this regard, the Ld. Sr. DR could not place on record any evidence refuting these facts on record. However, she submitted that since the notice has been sent through electronic form, therefore, there was no requirement for such signature of the issuing authority and even without such signature, the notice u/s. 143(2) of the Act was valid. The Ld. Sr. DR has placed reliance on the decision of the Hon'ble Jurisdictional High Court in the case of Bharat Krishi Kendra Vs. Union of India, WPT No.27 of 2022, dated 15.03.2022. The Ld. Sr. DR refers to Para 14 of the said decision which reads as follows:

"14. Third submission of learned counsel for petitioner is that approval granted under Section 151 of the Act of 1961 does not bear digital signature of authority, referring to note appended to approval (Annexure P-5), is concerned, the note appended says "if digitally signed, the date of digital signature may be taken as date of document". Submission of learned counsel for petitioner, in the opinion of this Court, is not acceptable in view of provisions of Section 282 (a) of the Act of 1961, which provides that notice or other documents to be issued for the purpose of the Act of 1961 by any income-tax authority shall be deemed to be authenticated if name and designation is provided. In approval under Section 151 of the Act of 1961, name, designation and office is printed. Hence, submission of learned counsel for petitioner

that approval is not digitally signed is also not sustainable, more so when it bears DIN & Document Number.”

6. That before responding to the submissions of the Ld. Sr. DR, it would be pertinent to extract the provision of Section 282A of the Act which reads as follows:

“**282A.** (1) Where this Act requires a notice or other document to be issued by any income-tax authority, such notice or other document shall be signed and issued in paper form or communicated in electronic form by that authority in accordance with such procedure as may be prescribed.

(2) Every notice or other document to be issued, served or given for the purposes of this Act by any income-tax authority, shall be deemed to be authenticated if the name and office of a designated income-tax authority is printed, stamped or otherwise written thereon.

(3) For the purposes of this section, a designated income-tax authority shall mean any income-tax authority authorised by the Board to issue, serve or give such notice or other document after authentication in the manner as provided in sub-section (2).”

7. The intention of the legislature is very clear so far as the aforesaid provision of the Act is concerned, wherein at Clause (1), it states that Where this Act requires a notice or other document to **be issued by any income-tax authority, such notice or other document shall be signed and issued in paper form or communicated in electronic form by that authority** in accordance with such procedure as may be prescribed. In other words, it is mandatory that any notice or document i.e. issued by the Income Tax Authority to the assessee such notice or document “shall be signed”. Suppose if the intention of the legislature was that such kind

of signature is not mandatory, the word “shall” would have been replaced by “will”. However, when the word “shall” has been used, it prescribes the mandatory requirement for signature of any notice or documents whether issued in paper form or communicated in electronic form to the assessee and, therefore, the submissions of the Ld. Sr. DR that since such notice u/s. 143(2) of the Act has been issued in electronic form, hence no signature is required is incorrect and not in conformity with Section 282A(1) of the Act. The reference made by the Ld. Sr. DR with regard to the judgment of the Hon’ble Jurisdictional High Court (supra), the same deals with **firstly**, Section 151 of the Act and not with regard to notice u/s. 143(2) of the Act; and **secondly**, the Hon’ble High Court has observed that “..... notice or other documents to be issued for the purpose of the Act of 1961 by any **income-tax authority shall be deemed to be authenticated** if name and designation is provided.....”. In fact, the Hon’ble High Court (supra) in Para-14 of the judgment refers to Section 282A(2) of the Act. For the sake of completeness, the same is extracted as follows:

“(2) Every notice or other document to be issued, served or given for the purposes of this Act by any income-tax authority, shall be deemed to be authenticated if the name and office of a designated income-tax authority is printed, stamped or otherwise written thereon.”

8. It is crystal clear from joint reading of Para-14 of the decision of the Hon’ble High Court (supra) and Clause (2) of Section 282A of the Act, that

the Hon'ble High Court has referred deeming provision with regard to the authentication in respect of notice or other document if the name and office of a designated income-tax authority is printed, stamped or otherwise written thereon. There is no dispute that as per requirement of the provision for authentication of such notice, the presence of name and office of the designated Income Tax Authority, if it is printed etc. then it shall be deemed to be authenticated. However, this provision does not supersede Clause (1) of Section 282A of the Act where it is mandatory first and foremost that the competent Income Tax Authority issuing any notice shall sign such notice or other document irrespective of such notice issued either on paper form or communicated through electronic form. Meaning thereby, signing of notice issued to the assessee is mandatory and that is not dispensed with by the deeming provision of Clause (2) to Section 282A of the Act which is only with regard to authentication of such notice. "Authentication" essentially refers to making the assessee aware that such notice has been issued from Income Tax Department and such authentication shall be deemed to exist if the name and office of the competent Income Tax Authority is mentioned in the notice but that does not provide any relaxation for application of Section 282A(1) of the Act regarding mandatorily signing of notice even if such notice is sent to the assessee in electronic form.

9. Reverting to the facts of the present case, it is crystal clear that such notice u/s. 143(2) of the Act which has been issued to the assessee was unsigned. The revenue has not placed on record any evidence contrary to the facts on record.

10. The **Hon'ble High Court of Bombay** in the case of **Prakash Kirshnavtar Bhardwaj Vs. Income Tax Officer, Ward-2(1), NFAC, Pune WP No.9835 of 2022, dated 09.01.2023** on the similar issue has held and observed as follows:

“19. Applying the ratio of the judgment of the Calcutta High Court in B.K. Gooyee and Aparna Agency (P.) Ltd. (supra) to the facts of the present case, the signature of the Assessing Officer admittedly not having been affixed on the notice issued u/s.148 of the Act, the notice itself would be invalid and consequently, the Assessing Officer could not assume jurisdiction to proceed in the matter in terms of section 148 of the Act. The Madhya Pradesh High Court in Umashankar Mishra (supra) has dealt with a similar fact situation where the first substantial question of law dealt with in that case had considered the effect of whether an unsigned notice can be considered as an irregularity or clerical mistake. The Madhya Pradesh High Court after making reference to the conclusions drawn in B.K.Gooyee (supra) by the Calcutta High Court, has taken the view, that a notice without a signature affixed on it is an invalid notice and is effectively no notice in the eyes of law.

20. The Madhya Pradesh High Court in Umashankar (supra) has further dealt with the second substantial question of law as to whether the Tribunal was right in holding that the absence of a signature on the notice constitutes a mistake or omission within the meaning of section 292B of the Act and while addressing itself to that question, has concluded that in the absence of a signature on the notice, the same would not constitute a mistake or omission and would not be curable under the provisions of section 292B of the Act.

21. We are, therefore, of the considered opinion that in the present case, the notice u/s.148 dated 02.04.2022 having no signature affixed on it, digitally or manually, the same is invalid and would not vest the Assessing Officer with any further jurisdiction to proceed to reassess the income of the petitioner. Consequently, the notice dated 02.04.2022 u/s.148 of the Act issued to the petitioner being invalid and sought to be issued after three years from the end of the relevant assessment year 2015-16 with which we are concerned in this petition, any steps taken by the respondents in furtherance of notice dated 21.03.2022 issued under clause (b) of section 148A of the Act and order dated 02.04.2022 issued under clause (d) of section 148A of the Act, would be without jurisdiction, and therefore, arbitrary and contrary to Article 14 of the Constitution of India. Consequently, we quash and set aside the notice dated 02.04.2022 issued by the respondents u/s.148 of the Act, order dated 02.04.2022 under clause (b) of section 148A of the Act and notice dated 21.03.2022 issued under clause (b) of section 148A of the Act.”

11. Further the Hon’ble Supreme Court in the case of **ACIT Vs. Hotel Blue Moon, 321 ITR 362 (SC)** has held that issuance of notice u/s. 143(2) of the Act is sine-qua-non for framing of an assessment u/s. 143(3) of the Act. Also, the **Hon’ble High Court of Delhi** in the case of **Shaily Juneja Vs. ACIT, (2024) 167 taxmann.com 90 (Delhi)** has dealt with the similar issue and held that issuance of notice u/s. 143(2) of the Act is mandatory in reassessment proceedings u/s. 147 of the Act.

12. Considering the facts and circumstances in this case and as per the aforesaid judicial pronouncements a/w. relevant provisions of the Act, I am of the considered view that since in this case notice u/s. 143(2) of the Act issued to the assessee was left unsigned and blank therefore it is

violative of Section 282A(1) of the Act, hence, such notice is held invalid, arbitrary and void ab initio.

13. That once the very notice u/s.143(2) of the Act is invalid, void ab initio, hence, the A.O ceases to possess any valid inherent jurisdiction to complete the assessment u/s.143(3) of the Act which is therefore, quashed.

14. That since the assessment itself is quashed, thereafter all other proceedings becomes non-est as per law. Since the legal issue has been answered in favour of the assessee therefore the grounds on merits becomes academic only.

15. As per the aforesaid terms the grounds of appeal raised by the assessee stands allowed.

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

Order pronounced in open court on 4th day of August, 2025.

Sd/-
(PARTHA SARATHI CHAUDHURY)
न्यायिक सदस्य/JUDICIAL MEMBER

रायपुर / Raipur; दिनांक / Dated : 4th August, 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