

आयकर अपीलीय अधिकरण, कोलकाता पीठ, कोलकाता

IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH KOLKATA

**Before Shri Rajesh Kumar, Accountant Member and
Shri Pradip Kumar Choubey, Judicial Member**

**ITA No.1187/Kol/2025
Assessment Year: 2017-18**

**Adyashakti Himghar Pvt. Ltd.....Appellant
11 Paul Street,
Kol- 700004..
[PAN: AACCA1114C]**

vs.

ACIT, Circle-7(1), Kolkata.....Respondent

Appearances by:

Shri Devesh Poddar, Advocate, appeared on behalf of the appellant.

Shri Altaf Hossain, Addl. CIT, appeared on behalf of the Respondent.

Date of concluding the hearing : September 17, 2025

Date of pronouncing the order : October 07, 2025

ORDER

Per Pradip Kumar Choubey, Judicial Member:

The present appeal has been preferred by the assessee against the order dated 20.05.2025 of the National Faceless Appeal Centre [hereinafter referred to as the "Id. CIT(A)"] passed u/s 250 of the Income Tax Act, 1961 [hereinafter referred to as the "Act"].

2. The assessee has challenged by taking additional grounds that notice u/s 143(2) of the Act dated 13.08.2018 is not in terms of the revised format issued by CBDT on 11.07.2016 and further modified by the letter dated 23.06.2017. His submission is that since the notice issued u/s 143(2) is defective, the assessment framed u/s 143(3) is void and fit to be quashed.

3. The facts in brief are that the assessee e-filed its Return of Income for the A.Y. 2017-18 on 19/10/2017 declaring total income of Rs.75,82,980. The return was processed u/s 143(1) of the Income Tax

Act, 1961 on 26/01/2018. Subsequently the case was selected for scrutiny under CASS u/s 143(1) of the Income Tax Act 1961. Notices u/s 143(2) and 142(1) of the Income Tax Act 1961 were issued and duly served on the assessee. The assessee time to time submitted its response to notices issued on e-portal. The Assessing Officer completed assessment of the assessee u/s 143(3) on 29/12/2019 on a total income of Rs.3,00,63,980.

3. Aggrieved by the said order, the assessee preferred appeal before the Id. CIT(A), wherein, the appeal of the assessee has been dismissed.

4. Being aggrieved and dissatisfied, the assessee preferred appeal before us. The Id. AR filed a copy of the notice issued under section 143(2) and contends that the said notice u/s 143(2) of the Act was not issued as per three formats propounded by the CBDT i.e (i)Limited Scrutiny (Computer Aided Scrutiny System) (ii)Complete Scrutiny (Computer Aided Scrutiny System) (iii)Compulsory Manual Scrutiny rather it has been mentioned Scrutiny (Computer Aided Scrutiny Selection System). He placed reliance of the decision of the Coordinate Bench of the Tribunal in the case of Ashok Kr. Agarwal and Ors HUF vs. ACIT in ITA No.1/Kol/2025 decided on 20.05.2025 and submits that the notice issued u/s 143(2) of the Act may be quashed.

5. On the other hand, Id. D.R. relied upon the order of Assessing Officer and submits that no expression exhibiting the limited scrutiny is being used by the Assessing Officer and the notice would indicate that the case was selected for scrutiny assessment.

6. Upon hearing the submissions of the counsels of the respective parties and we have considered the additional ground taken by the assessee for validity of issuance of the notice and also considered the cited decision of the Coordinate Bench of the Tribunal in the case of

Ashok Kr. Agarwal and Ors HUF vs. ACIT (supra). We note that the ld. AR has also filed the copy of the notice issued under section 143(2) of the Act dated 13.08.2028 wherein it has been mentioned Scrutiny (Computer Aided Scrutiny Selection System) without conforming the three formats specified by the CBDT as (i)Limited Scrutiny (Computer Aided Scrutiny System) (ii)Complete Scrutiny (Computer Aided Scrutiny System) (iii)Compulsory Manual Scrutiny. We find that the notice was issued on 13.08.2018 i.e. after the Board Circular dated 23.06.2017, whereby a format was laid down by the Board to be used by the Assessing Officer. We also note that in the case of the assessee, there is no mention of the type of scrutiny under which the case of the assessee has been selected. We further note that if scope of limited scrutiny is required to be extended, then appropriate approval from the competent authority was required to be taken by the Assessing Officer, otherwise he cannot enlarge the scope of the assessment. We have gone through the cited decision and find that under similar circumstances, the Hon'ble Coordinate Bench of the Tribunal in the case of Ashok Kr. Agarwal and Ors HUF vs. ACIT (supra) quashed the notice issued u/s 143(2) of the Act by holding as under:

5. *After hearing the rival contentions and perusing the materials available on record, we find that in this case the notice u/s 143(2) of the Act dated 10.08.2018, a copy of which is available at page no. 36 of the Paper Book, specifies only computer aided scrutiny selection which neither mentioned it either to be a limited or a complete scrutiny nor compulsory manual scrutiny. Thus, the said notice has been issued in violation of the instruction issued by CBDT as noted above. In our opinion, the revenue authorities have to follow the instruction issued by CBDT and violation thereto would certainly render the notice as invalid with the result all the consequential proceedings would also be invalid.*
6. *The case of the assessee find support from the decision of the coordinate Bench in the case of Tapas Kumar Das Vs. ITO in ITA No. 1660/KOL/2024 for A.Y. 2017-18, wherein a similar issue has been decided in favour of the assessee. The operative part of the same is extracted below:-*

“After hearing the rival contentions and perusing the materials available on record, we find that particularly the notice was issued u/s 143(2) of the Act, a copy of which is available at page no. 25 of the Paper Book. We note that the said notice has not been issued in consonance with the CBDT Instruction F No. 225/157/2017/ITA-II Dated 23.06.2017. The said notice is extracted below for the sake of ready reference:-

“आमकर अधिनियम 1961 की धारा 143(2) के अधीन नोटिस
Notice under section 143(2) of the Income-tax Act, 1961
संवीक्षा (कंप्यूटर आधारित संवीक्षा चयन Scrutiny (Computer Aided
Scrutiny Selection)

महोदय/ महोदया/ भेसर्स,

Sir/Madam/ M/s,

आपको सूचित किया जाता है कि निर्धारण वर्ष 2017-18 के पावती संख्या 269322761301017 के अनुसार आपके द्वारा दिनांक 30/10/2017 को दाखिल की गई आयकर विवरणी को संवीक्षा के लिए चुना गया है।

This is for your kind information that the return of income filed by you for assessment year 2017-18 vide ack, no. 269322761301017 on 30/10/2017 has been selected for Scrutiny.

2. इस संबंध में, आपको दिनांक 16/11/2018 को 01:00 PM तक साक्ष्य प्रस्तुत करने अथवा साक्ष्य प्रस्तुत कराने का अवसर प्रदान किया जा रहा है जिस पर आप उक्त आयकर विवरणी के समर्थन में निभर हैं/ रहेंगे।

2. In this regard, an opportunity is being given to you to produce or cause to produce any evidence on which you may like to rely in support of the said return of income by 16/11/2018 at 01:00 PM.

3. उपर्युक्त निर्दिष्ट प्रमाण / सूचना को आपको ऑनलाइन माध्यम से इलेक्ट्रॉनिक रूप में Incometaxindiaefiling.gov.in पर अपने ई-फाइलिंग खाता द्वारा प्रस्तुत किया जाना है। बाद की निर्धारण कार्यवाही भी आयकर विभाग की 'ई-कार्यवाही' सुविधा द्वारा की जायेगी। 'ई-कार्यवाही' पर एक संक्षिप्त नोट आपके संदर्भ के लिए संलग्न है।

3. The evidence/information specified above has to be furnished online electronically through your E-filing account in incometaxindiaefiling.gov.in. Subsequent assessment proceedings shall also be conducted electronically through the 'E-Proceeding' facility of Income-

tax Department. A brief note on 'E-Proceeding' is enclosed for your kind reference.

4. निर्धारणकार्यवाहीकेदौरान, यदिआवश्यकहोगातोसूचना /
दस्तावेजहेतुविशेषप्रश्नावली (यों) याअधियाचना (याँ)
कोबादमेंजारीकियाजाएगा।

4. In course of assessment proceedings, if required, specific questionnaire(s) or requisition(s) for information/document shall be issued subsequently.

5. कृपयाध्यानदेँकियदिआपकेपासई-फाइलिंगखाताहैतोआपकेलिएपैरा 3
लागूहै।आपकेद्वारास्वयंअपनाखातानबनालेनेतकनिर्धारणकार्यवाहीआपकेद्वारा
वर्णितकीगईई-मे

is created by you, assessment proceedings shall be carried out either through your specified e-mail account or manually (if e-mail is not available).

संलग्नक : यचौधरि

Enclosure as above

”

7. In our opinion, the notice issued u/s 143(2) of the Act which is not in the prescribed format as provided under the Act is an invalid notice and accordingly, all the subsequent proceedings thereto would be invalid and void ab initio. The case of the assessee find support from the decision of Shib Nath Ghosh Vs. ITO in ITA No. 1812/KOL/2024 for A.Y. 2018-19 vide order dated 29.11.2024, wherein the co-ordinate Bench has held as under:-

“10. After hearing both the sides and the materials available on record, we find that the notice issued u/s 143(2) dated 9th August, 2017 was not in any of the formats as provided in the CBDT instruction F.No.225/157/2017/ITA-II dated 23.06.2017. We have examined the notice, copy of which is available at page no.1 of the Paper Book and find that the same is not as per the format of CBDT Instruction F.No. 225/157/2017/ITA-II dated 23.06.2017 as stated above. In our opinion, the instruction issued by the CBDT are mandatory and binding on the Income tax authorities failing which the proceedings would be rendered as invalid. Hon'ble Apex Court in case of UCO Bank (supra) held that the circular issued by CBDT in exercise of its

statutory powers u/s 119 of the Act, are binding on the authorities. The Hon'ble Apex court held as under:-

“The Central Board of Direct Taxes under section 119 of the Income-tax Act, 1961, has power, inter alia, to tone down the rigour of the law and ensure a fair enforcement of its provisions, by issuing circulars in exercise of its statutory powers under section 119 of the Act which are binding on the authorities in the administration of the Act. Under section 119(2)(a), however, the circulars as contemplated therein cannot be adverse to the assessee. The power is given for the purpose of just, proper and efficient management of the work of assessment and in public interest. It is a beneficial power given to the Board for proper administration of fiscal law so that undue hardship may not be caused to the assessee and the fiscal laws may be correctly applied. Hard cases which can be properly categorized as belonging to a class, can thus be given the benefit of relaxation of law by issuing circulars binding on the taxing authorities.

In order to aid proper determination of the income of money lenders and banks, the Central Board of Direct Taxes issued a circular dated October 6, 1952, providing that where interest accruing on doubtful debts is credited to a suspense account, it need not be included in the assessee's taxable income, provided the Income-tax Officer is satisfied that recovery is practically improbable. Twenty-six years later, on June 20, 1978, in view of the judgment of the Kerala High Court in STATE BANK OF TRAVANCORE v. CIT [1977] 110 ITR 336, the Board by another circular, withdrew with immediate effect the earlier circular. However, by circular dated October 9, 1984, the Board decided that interest in respect of doubtful debts credited to suspense account by banking companies would be subjected to tax but interest charged in an account where there has been no recovery for three consecutive accounting years would not be subjected to tax in the fourth year and onwards. The circular also stated that if there is any recovery in the fourth year or later, the actual amount recovered only would be subjected to tax in the respective years. This procedure would apply to assessment year 1979-80 and onwards.”

8. *Considering the facts of the instant case in the light of the decision of the co-ordinate bench, we are inclined to hold that notice issued u/s 143(2) of the Act is invalid notice and accordingly, the assessment framed consequentially to that is also invalid and is hereby quashed.”*

7. *Since the facts of the assessee’s case are similar to one as decided by the co-ordinate Bench, we therefore, respectfully following the same hold that the notice issued u/s 143(2) of the Act is invalid notice and accordingly, the assessment framed consequentially is also invalid and is hereby quashed.”*

7. Respectfully following the decision of the Hon’ble Coordinate Bench of the Tribunal in the case of Ashok Kr. Agarwal and Ors HUF vs. ACIT (supra), we hold that notice issued u/s 143(2) of the Act is invalid and accordingly, the consequent assessment framed is also invalid and is hereby quashed.

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

Kolkata, the 7th October, 2025.

Sd/-
[Rajesh Kumar]
Accountant Member

Sd/-
[Pradip Kumar Choubey]
Judicial Member

Dated: 07.09.2025.

RS

Copy of the order forwarded to:

1. Appellant -
2. Respondent -
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches