

IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, KOLKATA

**BEFORE SHRI RAJESH KUMAR, AM
AND
SHRI PRADIP KUMAR CHOUBEY, JM**

**ITA No. 2173/KOL/2025
(Assessment Year: 2017-18)**

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Bengal

(Appellant)

ITO, Ward 30(2)
Aayakar Bhawan Dakshin, 2,
Gariahat Road, (South), Fifth
Floor, Kolkata-700053,
West Bengal

Vs.

(Respondent)

PAN No. AHHPB5785B

Assessee by : Shri Somnath Ghosh, AR
Revenue by : Shri Ruchika Sharma, DR

Date of hearing: 04.12.2025
Date of pronouncement: 18.12.2025

ORDER

Per Rajesh Kumar, AM:

This is an appeal preferred by the assessee against the order of the Commissioner of Income-tax (Appeals), Kolkata-20 (hereinafter referred to as the "Ld. CIT(A)") dated 30.06.2025 for the AY 2017-18.

2. At the time of hearing, the assessee pressed ground no.2 which is extracted below:-

"2. FOR THAT the Ld. Commissioner of Income Tax (Appeals). Kolkata-20 acted unlawfully in upholding the impugned assessment order framed u/s. 143(3) of the Act by the Ld. Income Tax Officer, Ward 30(2), Kolkata basing on an invalid notice dated 24-09-2018 issued u/s. 143(2) of the Act in contravention to the C.B.D.T. Instruction F. No. 225/157/2017/ITA-II Dated 23-06-2017 and the specious action on that account is absolutely arbitrary. unwarranted, and perverse."

2.1. The facts in brief are that the assessee filed the return of income u/s 139(1) of the Act on 22.10.2017, declaring total income of ₹20,45,560/-. The return was processed u/s 143(1) of the Act by CPC,

Bangalore. Subsequently, the case was selected for scrutiny and notice u/s 143(2) of the Act was issued and served upon the assessee, a copy of which is available at page no.103, which was issued by ITO Ward, 29(3) Kolkata. However, the assessment was framed by ITO Ward 30(2), Kolkata. The Id. AR vehemently submitted before us that since, the return of income of the assessee is above 20 lacs and assessee, who is based and assessed in Kolkata, which is a metro city, therefore, peculiar jurisdiction has not been followed by the authority while passing the order and accordingly. Therefore, the notice issued u/s 143(2) of the Act is invalid and so is the consequent assessment framed. The Id. AR stated that notice u/s 143(2) of the Act dated 24.09.2018, was issued by the ITO, Ward 29(3), Kolkata, which is in violation of pecuniary jurisdiction of the CBDT instruction No.1/2011 (F. No. 187/12/2010-IT(A-1), Dated 31.01.2011. According to the said instruction, the ITO has pecuniary jurisdiction where the income is upto 20 lacs in the Metro Cities and 15 lacs in Mofussil areas whereas the DC/AC have jurisdiction above 20 lacs in Metro cities and above 15 lacs in the Mofussil areas.

2.2. The Id. DR on the other hand, submitted that the income is marginal above ₹20 lacs and assessee has never challenged the issue before the Id. AO or before the Id. CIT (A). The Id. DR submitted that the CBDT circular does not overtake the legislation framed by the Parliament. The Id. DR submitted that this is an administrative matter and therefore, the appeal may be restored to the file of the AO. The Id. DR relied on the decisions of CIT vs. Shankar Lall Goenka [2025] 174 taxmann.com 31 (Gauhati) vide order dated 25-04-2025 & C. Krishnan vs. ITO [2014] 52 taxmann.com 30 (Madras) dated 27-11-2014.

2.3. After hearing the rival contentions and perusing the materials available on record, we find merit in the argument of the Id. AR that

notice u/s 143(2) of the Act dated 24.09.2018, was issued by the ITO, Ward 29(3), Kolkata, which is in violation of pecuniary jurisdiction of the CBDT instruction No.1/2011 (F. No. 187/12/2010-IT(A-1), Dated 31.01.2011. According to the said instruction, the ITO has pecuniary jurisdiction where the income is upto 20 lacs in the Metro Cities and 15 lacs in Mofussil areas whereas the DC/AC have jurisdiction above 20 lacs in Metro cities and above 15 lacs in the Mofussil areas. The said instructions reads as under:-

**SECTION 119 OF THE INCOME-TAX ACT, 1961 – INCOME-TAX AUTHORITIES –
INSTRUCTIONS TO SUBORDINATE AUTHORITIES
INSTRUCTION NO. 1/2011 [F. NO. 187/12/2010-IT(A-I)], DATED 31-1-2011**

References have been received by the Board from a large number of taxpayers, especially from mofussil areas, that the existing monetary limits for assigning cases to ITOs and DCs/ACs is causing hardship to the taxpayers, as it results in transfer of their cases to a DC/AC who is located in a different station, which increases their cost of compliance. The Board had considered the matter and is of the opinion that the existing limits need to be revised to remove the abovementioned hardship.

An increase in the monetary limits is also considered desirable in view of the increase in the scale of trade and industry since 2001, when the present income limits were introduced. It has therefore been decided to increase the monetary limits as under:

	<i>Income Declared (Mofussil areas)</i>		<i>Income Declared (Metro cities)</i>	
	<i>ITOs</i>	<i>ACs/DCs</i>	<i>ITOs</i>	<i>DCs/ACs</i>
Corporate returns	Upto Rs. 20 lacs	Above Rs. 20 lacs	Upto Rs. 30 lacs	Above Rs. 30 lacs
Non-corporate returns	Upto Rs. 15 lacs	Above Rs. 15 lacs	Upto Rs. 20 lacs	Above Rs. 20 lacs

Metro charges for the purpose of above instructions shall be Ahmedabad, Bangalore, Chennai, Delhi, Kolkata, Hyderabad, Mumbai and Pune.

The above instructions are issued in supersession of the earlier instructions and shall be applicable with effect from 1-4-2011.

2.4. In the present case, the assessee filed the return of income u/s 139(1) of the Act on 22.10.2017, disclosing total income of

₹20,45,560/-. We note that notice u/s 143(2) was issued on 24.09.2018 by ITO ward 29(3), Kolkata which is in violation of the CBDT Instruction No.1/2011 (F. No. 187/12/2010-IT(A-1), Dated 31.01.2011. Therefore, the said notice has been issued by non-jurisdictional AO while the assessment was framed u/s 143(3) of the Act de hors the mandatory notice u/s 142 of the Act by ITO Ward 30(2) Kolkata which is invalid and cannot be sustained. The case of the assessee find support from the decision of the Hon'ble Calcutta High Court in the case of PCIT vs. M/s Shree Shoppers Ltd. in ITAT 39/2023, IA No. GA/1/2023, dated 15.03.2023, wherein the Hon'ble Court has decided the issue in favour of the assessee by upholding the order of the Tribunal. The Tribunal in ITA No. 865/KOL/2018 for A.Y. 2012-13 in case of M/s Shree Shoppers Ltd. Vs. DCIT has held that notice issued by ITO, Ward 39(4), Kolkata, u/s 143(2) of the Act was without valid jurisdiction and therefore the consequent assessment framed by the DCIT, circle 9(2), Kolkata is invalid. The Hon'ble Tribunal followed the decision of jurisdictional High Court in case of PCIT vs. Nopany & Sons (2022) 136 taxmann.com 414 (Cal), while passing the order.

2.5. Considering the facts and circumstances of the case and also relying on the above decisions, we hold that the assessment framed by the AO Ward 30(2) Kolkata is invalid and is accordingly quashed.

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

Order pronounced in the open court on 18.12.2025.

Sd/-
(PRADIP KUMAR CHOUBEY)
(JUDICIAL MEMBER)

Sd/-
(RAJESH KUMAR)
(ACCOUNTANT MEMBER)

Kolkata, Dated: 18.12.2025

Sudip Sarkar, Sr.PS



Copy of the Order forwarded to:

1. The Appellant
2. The Respondent
3. CIT
4. DR, ITAT,
5. Guard file.

BY ORDER,

True Copy//

Sr. Private Secretary/ Asst. Registrar
Income Tax Appellate Tribunal, Kolkata