

आयकर अपीलीय अधिकरण, राँची न्यायपीठ, राँची

IN THE INCOME TAX APPELLATE TRIBUNAL RANCHI BENCH, RANCHI

BEFORE SHRI GEORGE MATHAN, JM & SHRI RATNESH NANDAN SAHAY, AM

आयकर अपील सं./ITA Nos.10 & 11/RAN/2017

(निर्धारण वर्ष / Assessment Years :2009-2010 & 2011-2012)

Smt. Sita Soren (Murmu), F-34, Sector-3, HEC Colony, Ranchi-834004	Vs.	ACIT, Circle-3, Ranchi
स्थायी लेखा सं./PAN No. : AGNPM 1747 R		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

निर्धारिती की ओर से /Assessee by	:	Shri Devesh Poddar, Advocate
राजस्व की ओर से /Revenue by	:	Shri Ram Chandra Marndi, Sr. DR


सुनवाई की तारीख / Date of Hearing	:	07/01/2026
घोषणा की तारीख/ Date of Pronouncement	:	07/01/2026

आदेश / ORDER

Per Bench :

These two appeals are filed by the assessee against the order passed by the Id.CIT(A), Ranchi, dated 13.10.2016 & 21.10.2016 for the assessment years 2009-2010 & 2011-2012.

2. It was submitted by the Ld. AR that for the impugned assessment year the assessee filed an original return on 31/03/2013. The Id. AR drew our attention to page 3 of the paper book, which is the copy of the return which reads as follows :-

FORM ITR-V		INDIAN INCOME TAX RETURN VERIFICATION FORM		Assessment Year		
[Where the data of the Return of Income in Benefits in Form (ITR-1 (SAHAJ), ITR-2, ITR-3, ITR-4, ITR-4S (SUGAM), ITR-5, ITR-6 transmitted electronically without digital signature]. - (Please see Rule 12 of the Income-tax Rules, 1962)				2011 - 12		
PERSONAL INFORMATION AND THE DATE OF ELECTRONIC TRANSMISSION	Name	SITA MURMU		PAN		
	Flat/Door/Block No	F- 34		AGNPM1747R		
	Road/Street/Post Office	HEC COLONY		Form No. which has been electronically transmitted (fill the code)		
	Town/City/District	RANCHI		ITR-4		
	Designation of AO (Ward / Circle)	PTN C 53 1		Status (fill the code)		
	E-filing Acknowledgement Number	612797890310313		Individual		
	Original or Revised	ORIGINAL				
	1	Gross total income			Date(DD/MM/YYYY) 31-03-2013	
	2	Deductions under Chapter-VI-A			1 1354314	
	3	Total Income			2 100000	
3a	Current Year loss, if any			3 1254310		
4	Net tax payable			3a 0		
5	Interest payable			4 328873		
6	Total tax and interest payable			5 54600		
7	Taxes Paid			6 383473		
a	Advance Tax	7a	0			
b	TDS	7b	53473			
c	TCS	7c	0			
d	Self Assessment Tax	7d	330000			
e	Total Taxes Paid (7a+7b+7c +7d)					
8	Tax Payable (6-7d)	7e	383473			
9	Refund (7e-6)	8	0			
		9	0			
VERIFICATION						
I, <u>SITA MURMU</u> son/ daughter of <u>SRI BADNARAN MAJHI</u> , holding permanent account number <u>AGNPM1747R</u>						
solemnly declare to the best of my knowledge and belief, the information given in the return and the schedules thereto which have been transmitted electronically by me vide acknowledgement number mentioned above is correct and complete and that the amount of total income/ fringe benefits and other particulars shown therein are truly stated and are in accordance with the provisions of the Income-tax Act, 1961, in respect of income and fringe benefits chargeable to income-tax for the previous year relevant to the assessment year 2011-12. I further declare that I am making this return in my capacity as _____ and I am also competent to make this return and verify it.						
Sign here		Date 31-03-2013		Place RANCHI		
If the return has been prepared by a Tax Return Preparer (TRP) give further details as below:						
Identification No. of TRP		Name of TRP		Counter Signature of TRP		
For Office Use Only		Filed from IP address 59.94.90.104				
Receipt No						
Date						
Seal and signature of receiving official						
				 AGNPM1747R04612797890310313382D4DC162D3591D30F159EE4B94741C46891266		
Please furnish Form ITR-V to "Centralized Processing Centre, Income Tax Department, Bengaluru 560500", by ORDINARY POST ONLY , within 120 days from date of transmitting the data electronically. Form ITR-V shall not be received in any other office of the Income-tax Department or in any other manner. The receipt of this ITR-V at ITD-CPC will be sent to you at this e-mail address ajay_poddar123@yahoo.co.in						

3. It was the submission that notice U/s.148 of the Act was issued on the assessee on 21/08/2012. It was the submission that subsequently notice U/s.143(2) of the Act came to be issued on 03.03.2014. The Ld. AR drew our attention to page 4 of the paper book which is the copy of the notice issued u/s.143(2) of the Act which reads as follows :-

L. No. 2807
Dated. 04/03/14

Notice under Section 143(2) of the Income - Tax Act, 1961
Office of the DC/AC-CIRCLE(1)-RANGE(3)-RANCHI

(4)

PAN No: AGNEM1747R

Dated: 03/03/2014

To

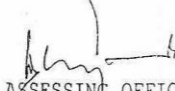
Smt. Sita Murmu
F-34, Sector -III,
HEC Colony,
Dhurwa, Ranchi - 834 004

Sir/Madam,

There are certain points in connection with the return of income submitted by you on 31/10/2009 for the assessment year 2011-12 on which I would like some further information.

2. You are hereby required to attend my office on 14th March, 2014 at 12:30 PM either in person or by a representative duly authorised in writing in this behalf or produce or cause there to be produced at the said time any documents, accounts and any other evidence on which you may rely in support of the return filed by you.

Yours faithfully


ASSESSING OFFICER

Name _____

Designation _____



Please note that :

- * The compliance sought with respect to questionnaire sent on 01/01/2014
- * Further non-compliance may lead to pass the order under section 144 of the I.T.Act, 1961

o/c
P
10/3/14

4. It was the submission that the Ld.AO has issued the notice u/s.143(2) of the Act in the respect of return of income allegedly filed by the assessee on 31/10/2009. It was the submission that no return has been filed by the

assessee for the assessment year 2011-12 on 31/10/2009 as it would not possible for the assessee to file the return. It was the submission that the return of income has been filed by the assessee on 31/03/2013 is considered, then the said u/s.143(2) of the Act notice cannot be considered in regard to the said return because of the notice u/s.148 of the Act has been issued on 21/08/2012. It was the submission that as the notice u/s.143(2) of the Act has been wrongly issued, there is no valid notice u/s.143(2) of the Act and consequence of the said notice/s.143(2) of the Act is liable to be quashed. It was the submission that even if the department is to assume that the return filed by the assessee is in response to the notice issued u/s. 148 of the Act even then the notice u/s.143(2) of the Act was to be issued within 6 months from the end of the financial year in which the return has been filed and that would be September, 2013. The notice u/s.143(2) of the Act having been issued on 03.03.2014 was also time barred.

5. In reply, Id. Sr. DR submitted that the date of 31/10/2009 in the notice u/s.143(2) notice of the Act is a typographical error.

6. To this, the Ld.AR submitted that for the assessment year 2009-10 also which is an appeal in ITA 10/RAN/2017, the AO has issued the notice u/s.143(2) of the Act on 01/01/2014, wherein also the same wordings are used and talk about the returned filed on 31/10/2009. The Ld.AR draw our attention to page 5 of the paper book which reads as follows:-

10/08/2022, 17:40

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Notice under Section 143(2) of the Income - Tax Act, 1961

Office of the DC/AC-CIRCLE(1)-RANGE(3)-RANCHI

PAN No: AGNPM1747R Dated: 01/01/2014

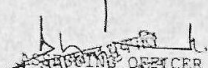
To
Smt. Sita Murmu
F-34, Sector -III,
HEC Colony,
Dhurwa, Ranchi - 834 004

Sir/Madam,


There are certain points in connection with the return of income submitted by you on 31/10/2009 for the assessment year 2009-10 on which I would like some further information.

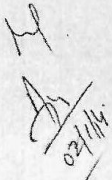
2. You are hereby required to attend my office on 09th January, 2014 at 12:30 PM either in person or by a representative duly authorised in writing in this behalf or produce or cause there to be produced at the said time any documents, accounts and any other evidence on which you may rely in support of the return filed by you.

Yours faithfully


 डी. उमेश चन्द्राकर, ऑफिसर
 सहायक आयकर अधिकारी
 अंचल-III, राँची

Name _____
Designation _____





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7. It was submission that there is no return of income either for the assessment 2009-10 or 2011-12 filed on 31/10/2009. It was submission that admittedly the AO was doing simultaneous assessments for both the assessment years 2009-10 and 2011-12 and the notices have been issued in confusion, insofar as even for the assessment order 2011-12 the AO mentions the assessment year 2009-10 in top of the assessment order. It

was submission that as there is no return of income filed on 31/09/2009, the notice issued under 143(2) of the Act is invalid notice and consequently the assessment done on the basis of an invalid notice, is liable to be quashed.

8. We have considered the rival submissions. A perusal of the provision of section 143(2) of the Act shows that the wordings are “where a return has been furnished u/s.139 of the Act, or in response to a notice under sub-section (1) of Section 142 of the Act, the Assessing Officer shall.....made in the return is, inadmissible...”. Now reading of the provision of section 143(2) of the Act clearly shows that there should be a return and it is that return which should be brought into question in the notice u/s.143(2) of the Act. For the assessment year 2011-12 the return has been filed originally on 31/03/2013 and in response to the notice u/s.148 of the Act a letter has been filed on 15/07/2013 requesting to treat the return filed on 31/03/2013 as the return in response to the u/s.148 of the Act. For the assessment year 2009-10, the return was filed on 30/10/2009 and in response to notice issued u/s.148 of the Act a letter has been filed on 15/07/2013 requesting that the said return filed on 30/10/2009 is to be considered as the return in response to the notice u/s.148A of the Act. There is no return dated 31/10/2009 either for the assessment year 2009-10 or for the assessment year 2011-12. Consequently, as the notice issued u/s.143(2) of the Act is on a non-existence return, the notice issued u/s.143(2) of the Act becomes invalid and consequential assessment in consequence to the invalid notice u/s.143(2) of the Act would also stand also become invalid. We are live to

the provision of section 292B of the Act. However, the provision of section 292B of the Act will not protect this notice u/s.143(2) of the Act, insofar as the notice is not in conformity with or according to the intended purpose of the Act insofar as there is no return on the date specified in the notice issued u/s.143(2) of the Act. This view of our also find support from the decision of the Hon'ble Supreme Court In the case of Hotel blue Moon, reported in 321 ITR 362 as also the decision of the Hon'ble Supreme Court in the case of Laxman Das Khandelwal, reported in 417ITR 325 where it has been categorically held that the non-issuance of valid 143(2) notice is not a curable defect u/s.292BB of the Act. In these circumstances as no valid notice u/s.143(2) of the Act has been issued, the consequential assessment passed in consequence of the invalid notice u/s.143(2) of the Act stands quashed.

9. In the result, both the appeals of the assessee are allowed.

Order dictated and pronounced in the open court on 07/01/2026.

Sd/-

(RATNESH NANDAN SAHAY)

लेखा सदस्य / ACCOUNTANT MEMBER

Sd/-

(GEORGE MATHAN)

न्यायिक सदस्य / JUDICIAL MEMBER

राँची Ranchi; दिनांक Dated 07/01/2026

Prakash Kumar Mishra, Sr.P.S.

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

1. अपीलार्थी / The Appellant- .
2. प्रत्यर्थी / The Respondent-
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, राँची / DR, ITAT, Ranchi
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

**(Senior Private
Secretary)**

आयकर अपीलीय अधिकरण, राँची / ITAT, Ranchi