

**IN THE INCOME TAX APPELLATE TRIBUNAL BENCH-RANCHI**  
**VIRTUAL HEARING AT KOLKATA**

**Before Shri Sonjoy Sarma, Judicial Member  
and Shri Ratnesh Nandan Sahay, Accountant Member**

**I.T.A. No.61/Ran/2024**  
Assessment Year: 2013-14

**ITO, Ranchi.....Appellant**

**vs.**

**Amba Carbonisation Pvt. Ltd .....Respondent**

21, Ashok Bhawan,  
Kali Asthan Road, Ranchi,  
Jharkhand.

**[PAN: AADCA7460J]**

**Appearances by:**

Shri Kanhaiya Lal Kanak, CIT, appeared on behalf of the appellant.

Shri Devesh Poddar, AR, appeared on behalf of the Respondent.

Date of concluding the hearing : December 18, 2025

Date of pronouncing the order : January 06, 2026

**ORDER**

**Per Sonjoy Sarma, Judicial Member:**

This appeal filed by the revenue is directed against the order of the NFAC, Delhi (hereinafter referred to as "Id. CIT(A)") dated 15.01.2024 passed under Section 250 of the Income-tax Act, 1961 (hereinafter referred to as the "Act").

2. Brief facts of the case are that the assessee is a company incorporated under the provisions of the Companies Act and is engaged in the business of manufacturing and trading of special smokeless coal/coke. The assessee also derives income by way of interest on bank deposits. As per information available with the Income-tax Department, it was noticed that the assessee's bank accounts reflected substantial cash deposits, which were allegedly withdrawn immediately through RTGS/NEFT transactions. It was further observed that there existed a difference between the turnover disclosed by the assessee in the return of income and the total credits appearing in the bank accounts. On the basis of the above information, the Assessing Officer (AO) initiated reassessment proceedings by issuing a notice under section 148 of the

Act dated 16.03.2021. Subsequently, without concluding or formally dropping the earlier reassessment proceedings, the AO issued another notice under section 148 of the Act dated 31.03.2021 for the same assessment year and on identical reasons, thereby initiating parallel reassessment proceedings. In response to the notices issued under section 148 of the Act, the assessee filed its return of income on 18.08.2021, declaring total income of ₹4,86,595/-. The filing of return in response to the notice under section 148 of the Act has been duly acknowledged by the AO in the assessment records. Prior to the reassessment, the assessee had filed its return of income under section 139 of the Act. The case was selected for scrutiny, and assessment under section 143(3) of the Act was completed by order dated 14.10.2015, determining total income at ₹6,84,600/-. During the reassessment proceedings, the AO issued notices under section 142(1) of the Act on 30.06.2021 and again on 22.02.2022, calling upon the assessee to furnish various details. According to the AO, the assessee did not comply with the notices and neither furnished the requisite information nor sought adjournment. On account of alleged non-compliance, the AO also initiated penalty proceedings after issuing notice under section 273B of the Act, proposing levy of penalty under section 270A/270AA of the Act. The assessee raised objections against the reopening of the assessment proceedings vide objections dated 15.02.2022, which were duly replied to on 22.02.2022. The assessee also requested reasonable opportunity to furnish details, contending that the notices were issued at very short intervals. The AO, however, proceeded to complete the reassessment based on the material available on record and passed the assessment order dated 30.03.2022 under section 147 read with section 144B of the Act, making an addition of ₹13,64,83,677/- under section 69A of the Act, treating the same as unexplained money. A perusal of the assessment records reveals that two notices under section 148 of the Act dated 16.03.2021 and

31.03.2021 were issued for the same assessment year. In the proceedings initiated pursuant to notice dated 16.03.2021, a notice under section 143(2) of the Act dated 21.01.2022 was issued. However, no assessment order was passed in the proceedings arising from the notice dated 16.03.2021, nor were such proceedings formally dropped or closed. The reassessment order dated 30.03.2022 was passed pursuant to the second notice dated 31.03.2021. In the proceedings initiated pursuant to notice dated 31.03.2021, no notice under section 143(2) of the Act was issued at any stage, and even the assessment order is silent on this mandatory requirement. The departmental records and the electronic portal clearly indicate that the reassessment proceedings initiated by notice dated 16.03.2021 continued to remain open.

3. Aggrieved by the reassessment order, the assessee preferred an appeal before the Id. CIT(A), primarily challenging the validity of the reassessment on jurisdictional and legal grounds, contending that parallel reassessment proceedings under section 148 of the Act cannot be initiated for the same assessment year without concluding the earlier proceedings. The reassessment order was passed without issuance of mandatory notice under section 143(2) of the Act in respect of the proceedings initiated by notice dated 31.03.2021. Issuance of notice under section 143(2) of the Act is a jurisdictional requirement, and its absence renders the assessment void ab initio. Such a defect is not curable under section 292B of the Act. The Id. CIT(A), after examining the submissions of the assessee and the assessment records, recorded detailed findings from para 7.1 onwards of the appellate order and held that the initiation of a second reassessment proceeding without concluding the first one clearly demonstrates non-application of mind. The reassessment order was passed without issuing notice under section 143(2) of the Act in the relevant proceedings. Participation of the assessee in the assessment proceedings does not cure a jurisdictional defect relying upon the judgments of the Hon'ble Supreme Court in ACIT

v. Hotel Blue Moon (321 ITR 362) and CIT v. Laxman Das Khandelwal (417 ITR 325), the Id. CIT(A) quashed the reassessment order. The Id. counsel has submitted that the Id. CIT(A) in his order has discussed the facts while allowing the appeal of the assessee by observing as under:

## 7. Decision

I have carefully examined the submission of the appellant as reproduced in the preceding paragraph and the facts emanating from the A. O's order, wherein addition has been made. From the submissions made by the assessee along with the paper book, it is noted that two notices u/s.148 were issued to the assessee for the A.Y.2013-14 i.e first on 16.03.2021 vide DIN & Notice No.

ITBA/AST/S/148/2020-21/1031527684(1) and then again on 31.03.2021 vide DIN & Notice No. ITBA/AST/S/148/2020-21/1032098673(1). The copies of notices are placed on record at page no.9 & 10 respectively of the paper book.

7.1. Subsequent to the issuance of notices u/s.148, in response the assessee filed their income-tax return for the A.Y.2013-14 on 18.10.2021, as recorded in the para 3 of the assessment order. Thereafter, the case was taken for re-assessment and the details of complete assessment proceedings in respect of both notices are available in electronic portal under e-proceedings, the screen shots of which have been placed on record by the assessee. The complete e-assessment proceedings for the notice u/s.148 issued on 16.03.2021 are available at page no.11 & 12 of the paper book and the complete e-assessment proceedings for the notice u/s.148 issued on 31.03.2021 are available at page no.13 & 14 of the paper book. The sequence of the proceedings as appearing in the e-proceedings portal are noted as below:-

### 7.1.1 E-proceedings in respect of the notice u/s.148 issued on 16.03.2021

- (a) Notice u/s.148 bearing DIN & Notice No. ITBA/AST/S/148/2020-21/1031527684(1) issued electronically on 16.03.2021
- (b) Notice u/s.142(1) bearing DIN & Notice No. ITBA/AST/F/142(1)/2021-22/1033862446(1) issued electronically on 30.06.2021
- (c) Notice u/s.143(2) bearing DIN & Notice No. ITBA/AST/F/143(2)4/2021-22/1038959738(1) issued electronically on 21.01.2022
- (d) Notice u/s.142(1) bearing DIN & Notice No. ITBA/AST/F/142(1)/2021-22/1039509902(1) issued electronically on 06.02.2022
- (e) Letter issued bearing DIN & Notice No. ITBA/AST/F/17/2021-22/1039627748(1) issued electronically on 10.02.2022
- (f) Thereafter, under the proceedings "Penalty Proceedings" for the A.Y.2013-14, some notice seems to have been issued and the penalty proceedings are reflecting as "Open"
- (g) In the last entry under "Assessment Proceedings u/s.147", the proceedings have not been closed.

### 7.1.2 E-proceedings in respect of the notice u/s.148 issued on 31.03.2021

- (a) Notice u/s.148 bearing DIN & Notice No. ITBA/AST/S/148/2020-21/1032098673(1). issued electronically on 31.03.2021
- (b) Notice u/s.142(1) bearing DIN & Notice No. ITBA/AST/F/142(1)/2021-22/1033895447(1) issued electronically on 30.06.2021
- (c) A letter bearing DIN & Notice No. ITBA/AST/F/17/2021-22/1040009257(1) issued electronically on 22.02.2022
- (d) A show-cause notice u/s.147 bearing DIN & Notice No. ITBA/AST/F/147(SCN)/2021-22/1041539592(1) issued electronically on 25.03.2022
- (e) Final assessment order passed on 30.03.2022 bearing DIN No. ITBA/AST/S/147/2021-22/1042173587(1) and the assessment proceedings are closed vide proceedings closure order No.224581298.

7.2. The sequence of the proceedings as appearing in the e-proceedings portal, as reproduced above shows that the assessment proceedings in respect of notice u/s.147 issued on 16.03.2021 were not completed by the limitation date of 31.03.2022 and the assessment proceedings in respect of notice u/s.147 issued on 31.03.2021 were completed by 30.03.2022. However, it is clear that no notice u/s.143(2) was issued to the appellant while finalizing the proceedings in-lieu of notice issued on 31.03.2021. The appellant has raised the issue of illegality of the assessment order, in the absence of notice u/s.143(2) vide ground no.4 of the appeal. It is submitted by the appellant that the assessment order deserves to be quashed since no notice u/s.143(2) was issued against the return filed by them on 18.08.2021.

7.2.1 In a case on identical facts in Civil Appeal Nos. 6261-6262 of 2019 in the case of CIT Vs Laxman Dass Khandelwal (Supreme Court of India) pronounced on 13/08/2019, the Hon'ble Supreme Court held that

"After filing a return of income u/s 139(1), 139(4), 139(5), 142(1) if income tax authority considers, it is necessary or expedient to ensure that assessee has not understated the income or has not computed excessive loss or has not under-paid the taxes in any manner, shall serve on the assessee a notice requiring him, on a date to be specified therein, either to attend the office of Assessing Officer or to produce or cause to be produced before Assessing Officer any evidence on which the assessee may rely in support of the return. Provided that no notice under this sub-section shall be served on the assessee after the expiry of three months from the end of the financial year in which the return is furnished.

A return of income filed in response to Notice u/s 148 is also treated as a return filed u/s 139 and provisions of income tax act so far as may be, apply accordingly as if such return were a return required to be furnished u/s 139. When a return of income filed in response to notice u/s 148 is deemed as filed u/s 139 also, then it is necessary that to make an assessment it is necessary to issue a notice u/s 143(2) to proceed further with assessment proceedings."

**7.2.2** In view of the decision of the **Honourable Supreme Court in case of ACIT V. Hotel Blue moon** vide order dated 2.2.2010 has held that omission on the part of the assessing authority to issue notice under section 143(2) cannot be a procedural irregularity and the same is not curable and, therefore, the requirement of notice under section 143(2) cannot be dispensed with. It is to be noted that the above said judgment was in the context of Section 158BC. Clause (b) of Section 158BC expressly provides that "the AO shall proceed to determine the undisclosed income of the block period in the manner laid down in section 158BB and the provisions of Section 142, sub sections (2) and (3) of Section 143, Section 144 and Section 145 shall, so far as may be, apply.

Not issuing notice within prescribed time renders the assessment invalid and participation of assessee in assessment proceedings also does not validate the assessment and protection is also not covered u/s 292BB. This position was cleared by Supreme Court in the case of CIT. V. Laxman Dass Khandelwal vide order dated 13.8.2019. Main portion is reproduced below:

"According to Section 292BB of the Act, if the assessee had participated in the proceedings, by way of legal fiction, notice would be deemed to be valid even if there be infractions as detailed in said Section. The scope of the provision is to make service of notice having certain infirmities to be proper and valid if there was requisite participation on part of the assessee. It is, however, to be noted that the Section does not save complete absence of notice. For Section 292BB to apply, the notice must have emanated from the department. It is only the infirmities in the manner of service of notice that the Section seeks to cure. The Section is not intended to cure complete

absence of notice itself."

7.3. Since the facts on record are clear that no notice under Section 143(2) of the Act was ever issued by the Department, the legality of the assessment order challenged by the appellant vide their Ground No. 4 of the appeal deserves to be allowed. Accordingly, the Ground No 4 of the appeal is **Allowed**.

7.3.1 In view of the decision in respect of Ground No 4 given above, the other grounds raise in appeal becomes redundant and accordingly are not adjudicated. In the result appeal is allowed. Order passed O/s 250 r.w.s 251 of the Act.

4. Dissatisfied with the above order, the Revenue is in appeal before us contending that notice under section 143(2) of the Act dated 21.01.2022 was issued. The assessee participated in the reassessment proceedings. The ld. CIT(A) erred in quashing the reassessment order on technical grounds. The learned Departmental Representative supported the assessment order and submitted that issuance of notice under section 143(2) of the Act in one of the proceedings is sufficient compliance.

5. The learned counsel for the assessee strongly supported the order of the ld. CIT(A) and submitted that notice under section 143(2) of the Act dated 21.01.2022 pertains only to proceedings initiated by notice dated 16.03.2021 whereas, the assessment order has been passed pursuant to notice dated 31.03.2021, in respect of which no notice under section 143(2) of the Act was issued. Therefore, two parallel reassessment proceedings are impermissible in law.

6. We have carefully considered the rival submissions and perused the material available on record. It is an undisputed fact that two notices under section 148 of the Act dated 16.03.2021 and 31.03.2021 were issued for the same assessment year. It is further undisputed fact that notice under section 143(2) of the Act was issued only in the proceedings arising from notice dated 16.03.2021. No assessment order was passed pursuant to the said notice. The reassessment order dated 30.03.2022

was passed pursuant to notice dated 31.03.2021, without issuance of notice under section 143(2) of the Act. The Hon'ble Supreme Court in ACIT v. Hotel Blue Moon (321 ITR 362) has categorically held that issuance of notice under section 143(2) of the Act is mandatory and not a mere procedural requirement. Further, in CIT v. Laxman Das Khandelwal (417 ITR 325), the Hon'ble Apex Court has held that absence of notice under section 143(2) of the Act is a jurisdictional defect and cannot be cured by invoking section 292B of the Act. We also agree with the Id. CIT(A) that parallel reassessment proceedings cannot be initiated without concluding the earlier proceedings, and the Department cannot subsequently contend that the earlier proceedings were dropped when the records show otherwise. In view of the above facts and the settled legal position, we find no infirmity in the order passed by the Id. CIT(A). Accordingly, the reassessment order, having been passed without issuance of mandatory notice under section 143(2) of the Act is void ab initio. Accordingly, the appeal filed by the Revenue is dismissed, and the order of the Id. CIT(A) is sustained.

7. In the result, the appeal of the revenue is dismissed.

***Kolkata, the 6<sup>th</sup> January, 2026.***

Sd/-  
**[Ratnesh Nandan Sahay]**  
**Accountant Member**

Sd/-  
**[Sonjoy Sarma]**  
**Judicial Member**

Dated: 06.1.2026.

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