

**IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH, DELHI**

**BEFORE SHRI S RIFAUR RAHMAN, ACCOUNTANT MEMBER &
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

**ITA No.513/Del/2025
(Assessment Year:2012-13)**

Rupinder Kaur Arora A 3/85, Varun Apartments Plot No. 12, Sector 9, Rohini, New Delhi – 110085	Vs.	ACIT, Circle 35(1) Civic Centre New Delhi – 110002
स्थायीलेखासं./जीआइआरसं./PAN/GIR No: AAHPK9424B		
Appellant	..	Respondent

Appellant by :	Ms. Anaya Kapoor, Adv. Sh. Aanjul Dalela, Adv.
Respondent by :	Sh. Rajesh Kumar Dhanesta, Sr. DR

Date of Hearing	12.11.2025
Date of Pronouncement	14.01.2026

ORDER

PER ANUBHAV SHARMA, JM:

This appeal is preferred by the assessee against the order dated 23.10.2024 of the Ld. National Faceless Appeal Centre (NFAC) (hereinafter

referred as Ld. First Appellate Authority or in short Ld. 'FAA') in DIN & Order No : ITBA/NFAC/S/250/2024-25/1069871804(1) arising out of the order dated 29.01.2020 u/s 147 r.w.s u/s 143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') passed by the Circle-35(1) for AY: 2012-13.

2. On hearing both sides we find that the fundamental issue involved is the assertion of the assessee by way of Ground No. 2 that no notice u/s 143(2) of the Act was issued for assumption of jurisdiction to complete assessment and thus, entire proceeding are vitiated.

3. Ld. DR though defended the issue by filing written submissions and submitting that the claim regarding non issuance of mandatory notice u/s 143(2) is a jurisdictional challenge that was apparently dismissed by the CIT(A). The assessee has not produced any evidence to prove that notices were not served. Reliance is placed on Hon'ble Delhi High Court decision in CIT Vs. Madhya Bharat Energy Corporation Ltd. (2011) 337 ITR 389 to submit that where assessee had participated in proceeding, technical objections regarding notice cannot invalidate assessment. It was submitted

that proceedings were initiated u/s 147 of the Act and completed u/s 147 r.w.s143(3) implying subsequent compliance requirements were deemed met or addressed during assessment process.

4. In regard to this controversy we find from the impugned order of Id. First Appellate Authority that the issue was decided with the following findings:

“7.5 In impugned case, the AO has taken into consideration all legal steps before initiating action in terms of section 147/148 of I.T. Act. The reasons for reopening were based on the information of bogus long term capital gain obtained by the assessee by way of accommodation entries from a set of entry operators. Further, the assessee has not disputed the recording of reasons by the AO. The assessee has also not disputed that the copy of recorded reasons was duly supplied to her and the objections filed by her were also disposed off by the AO. During the appeal proceedings, the appellant has submitted the copy of objections raised by him and stated to have been filed before the AO. Moreover, the so-called objections stated to have been filed shows that the appellant has tried to challenge the reopening merely on technical grounds by citing various case laws without indicating any procedural infirmity of the AO in the process of reopening of his case. In impugned case, the AO was supposed to issue notice by 31.03.2019, however, the notice u/s. 148 was issued on 29.03.2019 (as per detail available on ITBA) after taking approval from competent authority, which is

well within the time. Thereafter notices u/s.143(2)/142(1) were issued (as per detail available on ITBA) which is in accordance with the decision of Hon'ble Supreme Court in the case of Hotel Blue Moon as duly relied upon by the assessee. The assessee has not brought on record any cogent material suggesting that notices u/s.143(2)/142(1)/148 were not issued within the stipulated time. Therefore, having considered entire facts of the case and position of law on this issue, the action of AO is found to be correct as it is based on proper appreciation of facts and following all the conditions as laid down in terms of section 147/148 of I.T. Act. Accordingly, the action of AO is upheld and objection raised through grounds of appeal are dismissed. As a result, Ground No. 1 to 8 of the appeal are dismissed.”

5. As we go through the assessment order dated 30.12.2019, the assessment order does not record the background giving rise to reopening and in very general manner AO has opened the case of department by following preface:

“The case of the assessee was reopened for AY: 2012-13. The main issue involved was that the assessee had got made sale transaction of Rs.5,52,47,220/- by trading in M/s Blueprint Blue Print Securities Ltd. purchase of immovable property of Rs.2,15,22,100/- and large cash deposit in bank account.

A series of communications in the form of notices/letters were made through electronic mode which were duly replied by the assessee

(Department can view of ITBA portal and assessee can view on e-filing portal).”

6. Very apparently there is no mention of the details of date and mode of service of which jurisdictional notices and more particularly if they were served. Assessee on his part has produced before us screen shots of the ITBA portal wherein there is mention of notice dated 29.03.2019 issued u/s 148 of the Act but the columns made for providing description of the communication, nowhere mention of any notice u/s 143(2) or 142(1) of the Act being issued.

7. We are of considered view that Ld. CIT(A) having complete access to the ITBA portal or assessment records should have very well negated the assertion of the assessee by factual finding, however, what transpires from para 7.5 of the impugned order of ld. First Appellate Authority, as reproduced above, that burden was rather casted on assessee to allege that assessee was under an obligation to establish that notices were not issued within the stipulated time. The question was not of service but the fact under dispute is if at all notices were issued which remains ambiguous in the assessment order or First Appellate order and rather the e-portalscreen shot filed shall be as if

no notice u/s 143(2) was issued. Thus, reliance on the decision of Hon'ble Supreme Court in ACIT v. Hotel Blue Moon (2010), was erroneous, as the question is not of mere irregularity in service but of non-issuance of the notice at all.

8. Consequently, we sustain the contention raised and so is the ground No. 2 sustained. The appeal of assessee is allowed and the impugned assessment is quashed.

Order pronounced in the open court on 14.01.2026

Sd/-
(S Rifaur Rahman)
ACCOUNTANT MEMBER

Sd/-
(Anubhav Sharma)
JUDICIAL MEMBER

Dated 14.01.2026
Rohit, Sr. PS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI