

**आयकर अपीलीय अधिकरण, “एस.एम.सी” न्यायपीठ, कोलकाता**  
**IN THE INCOME TAX APPELLATE TRIBUNAL “SMC” BENCH KOLKATA**

श्री जार्ज माथन, न्यायिक सदस्य के समक्ष ।  
**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER**

आयकर अपील सं/ITA No.1999/KOL/2024  
(निर्धारण वर्ष / Assessment Year :2013-2014)

<b>Dynamo Realcon Pvt. Ltd.,</b> 27, Narayani, 2 <sup>nd</sup> Floor, Brabourne Road, Kolkata-700001	Vs	<b>ITO Ward-1(1), Kolkata</b>
PAN No. : <b>AADCD 1630 R</b>		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से /Assessee by	:	Shri Sunil Surana, AR
राजस्व की ओर से /Revenue by	:	Smt. Sima Das Biswas, Sr. DR
सुनवाई की तारीख / <b>Date of Hearing</b>	:	14/01/2026
घोषणा की तारीख/ <b>Date of Pronouncement</b>	:	14/01/2026

**आदेश / O R D E R**

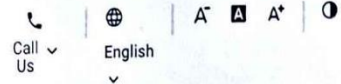
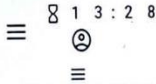
This is an appeal filed by the assessee against the order dated 05.08.2024 passed by the Id. CIT(A), National Faceless Appeal Centre (NFAC) for the assessment year 2013-2014.

2. It was submitted by theLd.AR that the notice required to be issued u/s.143(2) of the Act has not been issued in the impugned case. It was submission that the notice u/s.148 of the Act had been issued on the assessee on 18/03/2020. The assessee had filed its return of income in response to the said notice on 10/02/2021. The Ld. AR placed before me that the copy of the screenshot of the income tax portal in the case of the assessee which reads as follows:-

Dashboard > Pending Actions > e-Proceedings > View Notices

## View Notices for e-Proceedings

Proceeding Name  
Assessment Proceeding u/s 147  
PAN  
AADCD1630R  
Name of Assessee  
DYNAMO REALCON PRIVATE LIMITED  
Assessment Year  
2013-14  
  
Financial Year  
2012-13



Notice/ Communication Reference ID : 100038861446

**147**  
Notice u/s

**ITBA/AST/F/147(SCN)/2021-22/1035746797(1)**  
Document reference ID

Description : [ITBA]Show Cause Notice for Proceedings u/s 147of Income Tax Act 1961.  
Issued On : 20-Sep-2021  
Response Due Date : 23-Sep-2021

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[Notice/Letter Pdf](#)

Notice/ Communication Reference ID : 100038418000

Notice u/s

**ITBA/AST/F/17/2021-22/1035447188(1)**  
Document reference ID

Description : [ITBA]Issue Letter  
Issued On : 09-Sep-2021

[View Response](#)

[Notice/Letter Pdf](#)

Notice/ Communication Reference ID : 100031142422

**142(1)**  
Notice u/s

**ITBA/AST/F/142(1)/2020-21/1030424567(1)**  
Document reference ID

Description : **[ITBA]Notice u/s 142(1)of Income Tax Act 1961.**  
Issued On : **06-Feb-2021**  
Response Due Date : **15-Feb-2021**

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[Notice/Letter Pdf](#)

Notice/ Communication Reference ID : **100026786736**

**148**  
Notice u/s

**ITBA/AST/S/148/2019-20/1026747099(1)**  
Document reference ID

Description : **[ITBA]Notice under section 148 of the Income Tax Act, 1961**  
Issued On : **18-Mar-2020**


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3. It was the submission that no notice u/s.143(2) of the Act has been issued in the case of the assessee. He relied on the decision of the Hon'ble jurisdictional High Court in the case of M/s Sudarshan Paper & Board Private Limited, passed in ITAT/182/2022 IA No.GA/1/2022, GA/2/2022, dated 05.12.2022, wherein the Hon'ble Jurisdictional High Court page 2 & 3 has held as follows :-

*The revenue has raised the following substantial question of law for consideration:*

*Whether on the facts and circumstances of the case and in law the Learned Income Tax Appellate Tribunal is justified in*

*upholding the order of the Learned Commissioner of Income Tax (Appeal), quashing the order of the Assessing Officer under section 147/144 of the Income Tax Act, 1961 for non-issuance of notice under section 143(2) of the Act, without appreciating the facts that assessee did not comply with the notice under section 148 of the Income Tax Act, 1961 and as such notice under section 143(2) of the Income Tax Act, 1961 is not required in assessee's case ?*

*On perusal of the order passed by the learned Tribunal we find the legal issue involved in the instant case has been rightly dealt with by the learned Tribunal affirming the order passed by the Commissioner of Income Tax (Appeals) and quashing the reassessment proceeding for want of notice under Section 143(2) of the Act. In this regard usual reference may be made to the decision of the High Court of Madras in M/s. Sapthagiri Finance & Investments -vs- The Income Tax Officer TC(A) No. 159 of 2006 dated 17.07.2012. In the said decision after taking note of the decision of the Hon'ble Supreme Court in Asstt. CITU. Hotel Blue Moon: [2010] 321 ITR 362(SC) the reassessment proceeding was set aside. The initial view was that failure to issue notice is an irregularity, which is curable when subsequently the law is well settled that it being an inherent defect is not curable. To the same effect are the decisions in Principal Commissioner of Income Tax-vs-Jai Shiv Shankar Traders Pvt. Ltd. 383 ITR 448 (Delhi) and Tiwari Kanhaiya Lal -vs- Commissioner of Income-Tax 154 ITR 109 (Raj).*

*In the light of the above, the order passed by the learned Tribunal is legal and valid and does not call for any interference.*

*Accordingly, the appeal filed by the revenue is dismissed and the substantial question of law is answered against the revenue.*

4. It was submission that as statutory notice required on 143(2) of the Act has not been issued. The impugned assessment order is liable to be quashed.
5. The Ld. Sr.DR submitted that the assessment order specifies that the statutory notice has been issued. He supported the orders of the AO and CIT(A). It was submission that if required details may be called for from the AO.
6. I have considered the rival submission. A perusal of the facts in the present clearly shows that this is a faceless assessment, notices are to be

issued through the portal. The notice issued required u/s.143(2) of the Act has not been issued as is evident from the portal screenshot. This being so, respectfully following the decision of the Hon'ble jurisdictional High Court in the case of M/s Sudarshan Paper and Board Pvt. Ltd., referred to supra, as the statutory notice has not been issued on 143(2) of the Act, the assessment is held to be invalid and consequently the same is hereby quashed.

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

Order dictated and pronounced in the open court on 14/01/2026.

**Sd/-**

(जार्ज माथन)

**(GEORGE MATHAN)**

**न्यायिक सदस्य / JUDICIAL MEMBER**

**कोलकाता** Kolkata; दिनांक Dated 14/01/2026

*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, **कोलकाता** / DR, ITAT, Kolkata
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

(Assistant Registrar)

Income Tax Appellate Tribunal, Kolkata