

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES 'B': NEW DELHI.**

**BEFORE SHRIS.RIFAUR RAHMAN, ACCOUNTANT MEMBER
and
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

**ITA No.2185/Del/2025
(Assessment Year: 2014-15)**

**ITA No.2186/Del/2025
(Assessment Year: 2015-16)**

Sunrise F & B Restaurant Pvt. Ltd.,
71, First Floor, Khan Market,
Kasturba Nagar,
Delhi – 110 003.

vs. ACIT, Central Circle 30,
New Delhi.

(PAN : AARCS9518H)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri Mani Bhadra Jain, Advocate
Shri Narendra Rustagi, CA
REVENUE BY : Ms. Pooja Swaroop, CIT DR

Date of Hearing : 12.11.2025
Date of Order : 28.01.2026

ORDER

PER S. RIFAUR RAHMAN, ACCOUNTANT MEMBER :

1. The assessee has filed appeals against the order of the Learned Commissioner of Income Tax (Appeals)-30, New Delhi ["Ld. CIT (A)", for short] dated 11.02.2025 for the Assessment Years 2014-15 and 2015-16.
2. At the time of hearing, ld. AR of the assessee brought to our notice that assessee has filed original return of income under section 139(1) of the

Income-tax Act, 1961 (for short 'the Act') on 29.09.2015 declaring loss of Rs.2,24,849/-, the same was processed under section 143(1) accepting the returned income. Subsequently, a search and seizure operation u/s 132 of the Act was carried out in Shukhija Group of cases on 22.10.2016. During the course of search, various documents/books were found and seized. The case of the assessee was centralized with Central Circle 17, Range 5, PCIT (Central)-2, New Delhi. While examining the seized documents, certain documents pertaining/belonging to assessee were found. Therefore, the AO of the searched person recorded his satisfaction on 26.09.2018 that these documents did not belong to the searched person but belongs to the assessee. Based on the above satisfaction, the case was handed over along with satisfaction note to the AO of the assessee. Accordingly, the AO of the assessee also recorded his satisfaction on 26.09.2018. The case of the assessee was centralized in Central Circle 30 vide order dated 25.04.2019. Accordingly, the notice u/s 153A r.w.s. 153C of the Act was issued on 26.09.2018. A copy of the same was placed at record in the form of paper book. In response, assessee filed his return of income declaring the same income as disclosed in original return of income on 16.10.2018. Notice under section 143(2) was issued on 16.11.2019. With the above facts on record, ld. AR of the assessee submitted that another notice u/s 153C through system was issued on 05.09.2019 and the relevant notice was filed at page 39 of the paper book which is also supported by the earlier notice

issued by the erstwhile AO which is also placed at page 40 of the paper book. In this regard, ld. AR submitted that the assessment order was completed on 23.12.2019. He submitted that there was no 143(2) notice issued earlier by the other officer. He submitted that 143(2) notice issued on 16.11.2019 is beyond the limitation period. He submitted that in response to notice issued u/s 153C dated 26.09.2018, assessee has filed its return of income on 16.10.2018, therefore, 143(2) notice should have been issued in time. However, 143(2) notice was issued only on 16.11.2019 which is beyond the period of limitation and prayed that the assessment framed by the AO is without any jurisdiction.

3. On the other hand, ld. DR of the Revenue brought to our notice page 2 of the assessment order and submitted that the notice u/s 153C is issued on 26.09.2018 to the assessee and assessee has not filed any return of income against the above said notice. Therefore, the order passed by the AO is proper and as per law.
4. Considered the rival submissions and material placed on record. We observed that after the search conducted in the case of Shukhija Group on 22.10.2016, the case of the assessee was centralized and accordingly satisfaction was recorded by the AO of the assessee on 26.09.2018. Based on that, notice u/s 153C was issued on 26.09.2018 to the assessee. In response, assessee vide letter dated 16.10.2018 filed the return of income and also intimated to the then AO that the return of income originally filed

for the year under consideration shall be considered as income filed in response to the notice issued u/s 153C of the Act. At page 18 of the paper book, the relevant letter was filed before us with the acknowledgement from the Department at Central Circle 17 (to the AO). Subsequently, the case was transferred to Central Circle 30, Delhi who had issued the same 153C notice through ITBA system on 05.09.2019 and the assessee was asked to submit return of income in response to above said notice. In response, assessee had submitted the return of income one more time on 14.09.2019. The AO issued notice u/s 143(2) on 16.11.2019. As per the provisions of the Act as laid down in provisions of section 153A and 153B of the Act, once the original notice was issued u/s 153C to the assessee, assessee has to respond to the above said notice within the time period allowed. In this case, we observed that assessee has filed return of income on 16.10.2018 in response to the notice issued u/s 153C of the Act. We noticed that the erstwhile AO has not issued any 143(2) notice within the period of limitation. However, the case of the assessee was transferred to the Central Circle 30 who then initiated the proceedings after collecting the return of income afresh from the assessee and proceeded to issue the notice u/s 143(2) of the Act. After considering the factual matrix on record, we observed that notice issued u/s 143(2) is beyond the limitation period prescribed under law. Therefore, the assessment completed by the AO without issuing the notice u/s 143(2) within the limitation period is *void ab initio*. In the result,

assessment passed u/s 143(3) r.w.s. 153A and 153C of the Act is bad in law and accordingly set aside. Accordingly, ground no.7 raised by the assessee is allowed.

5. At the time of hearing, grounds raised by the assessee regarding DIN was not pressed and other grounds of appeal are not argued before us, therefore, ground nos.2 raised by the assessee on DIN is accordingly dismissed and other grounds raised by the assessee are kept open at this stage.
6. In the result, the appeal filed by the assessee being ITA No.2185/Del/2025 is partly allowed.
7. With regard to appeal for AY 2015-16 is concerned, since the facts are exactly similar to AY 2014-15 our above findings in AY 2014-15 is applicable *mutatis mutandis* in AY 2015-16. Accordingly, the appeal being ITA No.2186/Del/2025 for AY 2015-16 filed by the assessee is also partly allowed.
8. To sum up : both the appeals filed by the assessee are partly allowed.

Order pronounced in the open court on this 28th day of January, 2026.

**Sd/-
(ANUBHAV SHARMA)
JUDICIAL MEMBER**

**sd/-
(S.RIFAUR RAHMAN)
ACCOUNTANT MEMBER**

**Dated: 28.01.2026
TS**

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI