

**आयकर अपीलीय अधिकरण, कोलकाता पीठ, कोलकाता**

**IN THE INCOME TAX APPELLATE TRIBUNAL "D" BENCH KOLKATA**

**Before Shri Rajesh Kumar, Accountant Member and  
Shri Pradip Kumar Choubey, Judicial Member**

**ITA No.1626/Kol/2025  
Assessment Year: 2012-13**

**R Rampuria Consultants Pvt. Ltd.....Appellant  
3<sup>rd</sup> Floor, 51 Ezra Street,  
Kol -700001..  
[PAN: AAECD1879K]**

**vs.**

**DCIT, Circle-5(1), Kolkata.....Respondent**

**Appearances by:**

Shri Sunil Surana, FCA, appeared on behalf of the appellant.

Shri S B Chakraborty, Addl. CIT – Sr. DR, appeared on behalf of the Respondent.

Date of concluding the hearing : December 04, 2025

Date of pronouncing the order : January 28, 2026

**ORDER**

**Per Pradip Kumar Choubey, Judicial Member:**

This appeal filed by the assessee is directed against the order dated 12.06.2025 of the National Faceless Appeal Centre [‘CIT(A)’] passed under Section 250 of the Income-tax Act, 1961 (hereinafter referred to as “the Act”) for the assessment year 2012–13.

2. Brief facts of the case are that assessee is a company and filed its return of income for A.Y. 2012-13 declaring total income of Rs. 690/- dated 26.09.2012. The case was selected for scrutiny through CASS. Therefore, notice u/s 143(2) of the Act was issued on 12.08.2013. On the basis of information, the AO framed best judgment assessment u/s 144 and adding Rs. 1,64,00,000/- u/s 68 of the Act.

3. Aggrieved by the said order, the assessee preferred appeal before the ld. CIT(A) wherein the ld. CIT(A) remitted the matter back to the Assessing Officer for fresh consideration.

4. Aggrieved and dissatisfied, the assessee is in appeal before us. At the very outset, the assessee has challenged by taking legal ground that notice u/s 143(2) of the Act dated 12.08.2013 is not in conformity with the Instruction issued by CBDT Instruction No.1/2011 dated 31.01.2011 and since the notice issued u/s 143(2) is defective, the assessment order is void and fit to be quashed. The ld. Counsel further submits that since legal issue goes to the root of the matter, therefore, the same may be admitted for adjudication. After considering the facts of the case and keeping in view the decisions of the Hon'ble Apex court in the case of National Thermal Power Co. Ltd v. CIT [1998] 229 ITR 383, we are inclined to admit the legal ground for adjudication.

5. The ld. AR challenges the very impugned order by taking legal ground that both the lower authorities have failed to consider that ITO/Assessing Officer lacked jurisdiction over the assessee to take up the assessment proceedings due to pecuniary limit as prescribed in CBDT Instruction No.1/2011 dated 31.01.2011. He has cited decision the following decisions:

Judgement of Hon'ble Calcutta High Court in the case of Shree Shoppers pronounced on 15.03.2023
Judgement of Hon'ble Calcutta High Court in the case of Raghvendra Mohta pronounced on 05.05.2025
Judgement of Hon'ble Kolkata ITAT in the case of Raghvendra Mohta pronounced on 08.04.2024
Judgement of Hon'ble Kolkata ITAT in the case of ARS Financial pronounced on 28.08.2025
Judgement of Hon'ble Kolkata ITAT in the case of Surya Agro pronounced on 16.09.2025

6. Contrary to that, the ld. DR supports the impugned order.
7. We have heard the submissions of the counsels of the respective parties and perused the material available on record. We find that the CBDT vide its Instruction No.1/2011 has given monetary limit for ITOs and DCs/ACs, the said Instruction reads as under:

**SECTION 119 OF THE INCOME-TAX ACT, 1961 – INCOME-TAX AUTHORITIES –  
INSTRUCTIONS TO SUBORDINATE AUTHORITIES  
INSTRUCTION NO. 1/2011 [F. NO. 187/12/2010-IT(A-I)], DATED 31-1-2011**

References have been received by the Board from a large number of taxpayers, especially from mofussil areas, that the existing monetary limits for assigning cases to ITOs and DCs/ACs is causing hardship to the taxpayers, as it results in transfer of their cases to a DC/AC who is located in a different station, which increases their cost of compliance. The Board had considered the matter and is of the opinion that the existing limits need to be revised to remove the abovementioned hardship.

An increase in the monetary limits is also considered desirable in view of the increase in the scale of trade and industry since 2001, when the present income limits were introduced. It has therefore been decided to increase the monetary limits as under:

	<i>Income Declared (Mofussil areas)</i>		<i>Income Declared (Metro cities)</i>	
	<i>ITOs</i>	<i>ACs/DCs</i>	<i>ITOs</i>	<i>DCs/ACs</i>
Corporate returns	Upto Rs. 20 lacs	Above Rs. 20 lacs	Upto Rs. 30 lacs	Above Rs. 30 lacs
Non-corporate returns	Upto Rs. 15 lacs	Above Rs. 15 lacs	Upto Rs. 20 lacs	Above Rs. 20 lacs

Metro charges for the purpose of above instructions shall be Ahmedabad, Bangalore, Chennai, Delhi, Kolkata, Hyderabad, Mumbai and Pune.

The above instructions are issued in supersession of the earlier instructions and shall be applicable with effect from 1-4-2011.

7.1 On perusal of the above CBDT Instructions, we note that in this case, the returned income of the assessee was Rs.690/- which is below the threshold limit of Rs.30,00,000/- for the "CORPORATE RETURNS" and notice 143(2) were issued by DCIT, Kolkata which is invalid as the competent authority to issue such notices lie with ITOs of Income Tax. We further note that DCIT, Kolkata did not have any jurisdiction to issue the aforesaid notice. We have gone through the cited decision of the Hon'ble Calcutta High Court in ITAT/39/2023 in the case of PCIT vs. M/s Shree Shoppers Ltd., wherein it was held as under:

*“The short issue which falls for consideration in the instant case is whether there is valid notice issued under Section 143 (2) of the Act for commencing the Scrutiny assessment. The Tribunal has noted the facts and rendered a finding that on the date when the case was selected for scrutiny, the authority who issued the notice namely, the Income Tax Officer, Ward No.9 (4), Kolkala did not have jurisdiction and the jurisdiction was with the Deputy Commissioner of Income Tax. The following factual finding has been recorded by the Tribunal :*

*“Therefore, the legal ground stands to be admitted and the same relates to invalid notice issued u/ 143(2) of the Act. It is a settled position of law that for carrying out the assessment proceedings u/s. 143(3) of the Act, the statutory requirement of serving of valid notice u/s. 143(2) of the Act is must and in absence thereof the subsequent proceedings become invalid. In the case of assessee, the facts are that the assessee has declared income of Rs.48,47,180/- in the e-return filed on 26.09.2012. For selecting the case for scrutiny notice u/s. 143(2) of the Act as issued by ITA, Ward-9(4), Kolkata dated 23.09.2013. The Central Board of Direct Taxes (CBDT vide Instruction No.1 /2011 supra) revised the monetary limit for issuing notice by ITO/DCs/ACs. Through this instruction it stated that in case of metro cities in case of corporate declare income above Rs.30 lakh the jurisdiction of such corporate assessee will lie with the DCs/ACs. It is not in dispute chat as on the date of selecting the case for scrutiny, the very basis for having jurisdiction over the assessee is the returned income which was more than Rs.30 lakhs and the same was lying with the DCs/Acs but the notice u/s. 143(2) of the Act has been issued by ITO, Ward-9(4), Ko1kata. It is true that subsequently the assessment has been framed by DCIT, Circle-9(2), Kolkata but the point in dispute is that on date of issuing a notice u/s. 143(2) of the At, whether the ITO, ward-9(4), Kolkata was having a valid jurisdiction to issue such notice u/s. 143(2) of the Act.”*

7.2 We have also perused the cited decision in the case of PCIT vs. Raghvendra Mohta in ITAT/51/2025 wherein the Hon’ble Jurisdictional High Court has held as under:

*“We have heard Mr. Prithu Dudhoria, learned advocate for the appellant and Mr. Abhratosh Mazumder, learned senior counsel assisted by Mr. Avra Mazumder, learned advocate for the respondent.*

*The assessee preferred appeal before the learned Tribunal challenging the order passed by the Commissioner of Income Tax (Appeals)-10, Kolkata [CIT(A)] dated 26.9.2017. One of the grounds urged before the learned Tribunal was that the Assessing Officer, who passed the assessment order did not have jurisdiction over the case of the assessee and, therefore, the notice as well as the assessment order are bad in law. The learned Tribunal took note of the facts and circumstances of the case and found that the assessee filed its return of income*

*declaring the income to be nil. Subsequently, notice under section 143(2) was issued on 10.9.2015 and notice under section 142(1) dated 13.6.2016 was issued along with the questionnaire. The assessee contended that the notices were without jurisdiction and relied upon section 120 of the Act. In this regard, the assessee referred to the notification issued by the CBDT in Instruction No.1 of 2011. The learned Tribunal took into consideration the facts of the case and found that the assessment has been framed by the Assessing Officer, who inherently lacks jurisdiction to do so.*

*The learned Tribunal took note of the decision of a Co-ordinate Bench of the learned Tribunal in the case of Bhagyalaxmi Conclave (P) Ltd. vs. DCIT dated 3.2.2021. Apart from other decisions and allowed the assessee's appeal, the revenue had challenged the order passed in the case of Bhagyalaxmi Conclave (P) Ltd. before this court in ITAT/221/2022 etc. and by a judgment reported in 2022 (12) TMI 1514, the appeal filed by the department was dismissed wherein one of the questions framed is identical to the substantial questions of law suggested by the revenue in the instant case. Thus, we find that the learned Tribunal was right in allowing the assessee' appeal and setting aside the order passed by the Assessing Officer on the ground of lack of inherent jurisdiction.*

*For the above reason, the appeal is dismissed and the substantial questions of law are answered against the revenue.”*

7.3 Keeping in view the above discussion and considering the various judicial precedents, we do not have any hesitation to hold that the notice u/s 143(2) of the Act is without jurisdiction and the consequent assessment proceedings are bad in law as per CBDT Instruction No.1/2011. The appeal of the assessee is allowed on legal ground, hence the other grounds on merit become academic in nature.

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

***Kolkata, the 28<sup>th</sup> January, 2026.***

Sd/-  
**[Rajesh Kumar]**  
**Accountant Member**

Sd/-  
**[Pradip Kumar Choubey]**  
**Judicial Member**

Dated: 28.01.2026.

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