आयकर अपीलीय अधिकरण न्यायपीठ "एक-सदस्य" मामला रायपुर में

IN THE INCOME TAX APPELLATE TRIBUNAL
RAIPUR BENCH "SMC", RAIPUR

श्री पार्थ सारथी चौधरी, न्यायिक सदस्य के समक्ष
BEFORE SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER

M.A. No.02/RPR/2026
(Arising out of ITA No.362/RPR/2025)
निर्धारण वर्ष/Assessment Year : 2011-12

The Income Tax Officer,
Ward-1(4), Bhilai (C.G.)

.....अपीलार्थी / Appellant

बनाम / V/s.

Laxmi Hanumanta
Iris 76, Chohan Green Vally,
Junwani Road, Bhilai-490 020 (C.G.)
PAN: ABYPH5918B

.....प्रत्यर्थी / Respondent

Assessee by : None (petition filed)
Revenue by : Dr. Priyanka Patel, Sr. DR

सुनवाई की तारीख / Date of Hearing : 06.02.2026
घोषणा की तारीख / Date of Pronouncement : 10.02.2026

आदेश / ORDER

PER PARTHA SARATHI CHAUDHURY, JM

The captioned Miscellaneous Application has been filed by the Revenue arising out of ITA No.362/RPR/2025 for assessment year 2011-12 u/s.254(2) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') dated 07.08.2025

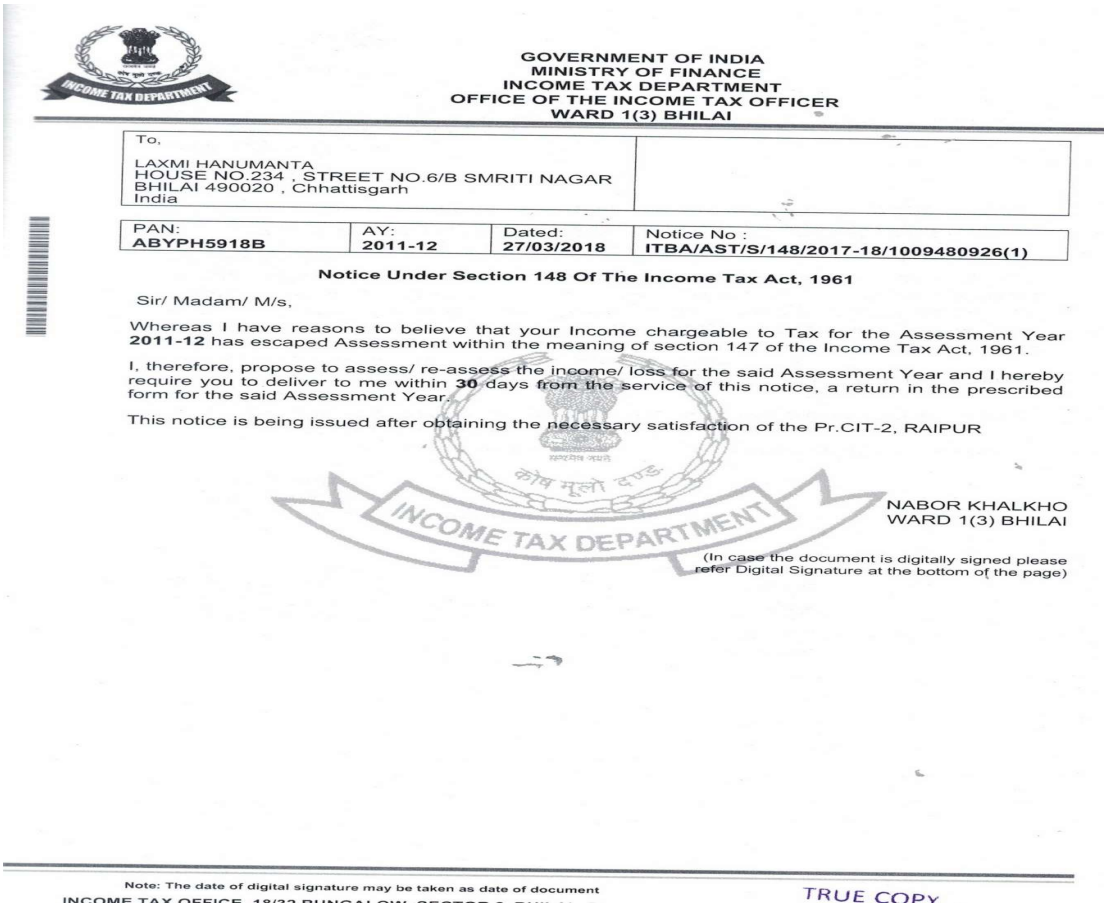
2. The Revenue by filing the captioned miscellaneous application submitted as follows: (relevant extract)

> "i. Whether on the facts and in the circumstances of the case and in law, Hon'ble ITAT was justified in quashing the re-assessment order passed by the Assessing Officer on the basis of fact that the notice u/s. 148 of the Act dated 27.03.2018 issued to the assessee was left unsigned and blank, whereas, the notice u/s. 148 of the Act was duly signed by the Assessing Officer and served through post?
>
> ii. The order of ITAT is erroneous both in law and on facts.
>
> iii. Any other ground that may be adduced at the time of hearing."

3. At the time of hearing of the miscellaneous application neither the assessee nor his Authorized Representative was present. However, an adjournment application has been filed which is rejected. The miscellaneous application is heard after hearing the Ld. Sr. DR and perusing the materials available on record.

4. It would be relevant to extract the relevant part of the order of the Tribunal passed in ITA No.362/RPR/2025 dated 07.08.2025 which reads as follows:

> "3. The Ld. Counsel for the assessee assailing the legal ground submitted that in the present case, though the assessment has been completed u/s.143(3)/147 of the Income Tax Act, 1961 (for short 'the Act'), however no valid notice u/s.148 of the Act has been served on the assessee since such notice is without any signature of the issuing authority hence, violative of Section 282A(1) of the Act. The copy of notice u/s.148 of the Act, dated 27.03.2018 has been annexed at Page 2 of the paper book which is extracted and made part of this order:



GOVERNMENT OF INDIA
MINISTRY OF FINANCE
INCOME TAX DEPARTMENT
OFFICE OF THE INCOME TAX OFFICER
WARD 1(3) BHILAI

To,

LAXMI HANUMANTA
HOUSE NO.234 , STREET NO.6/B SMRITI NAGAR
BHILAI 490020 , Chhattisgarh
India

PAN:	AY:	Dated:	Notice No :
ABYPH5918B	2011-12	27/03/2018	ITBA/AST/S/148/2017-18/1009480926(1)

Notice Under Section 148 Of The Income Tax Act, 1961

Sir/ Madam/ M/s,

Whereas I have reasons to believe that your Income chargeable to Tax for the Assessment Year **2011-12** has escaped Assessment within the meaning of section 147 of the Income Tax Act, 1961.

I, therefore, propose to assess/ re-assess the income/ loss for the said Assessment Year and I hereby require you to deliver to me within **30** days from the service of this notice, a return in the prescribed form for the said Assessment Year.

This notice is being issued after obtaining the necessary satisfaction of the Pr.CIT-2, RAIPUR

INCOME TAX DEPARTMENT

NABOR KHALKHO
WARD 1(3) BHILAI

(In case the document is digitally signed please refer Digital Signature at the bottom of the page)

Note: The date of digital signature may be taken as date of document

TRUE COPY

4. At this stage, I refer to decision of the **ITAT, Raipur** in the case of **Smt. Shobha Dubey Vs. ITO, Ward-3(1), Raipur, ITA No. 395/RPR/2025, dated 04.08.2025**, wherein the similar issue has been dealt with in a detailed manner in favour of the assessee. For the sake of completeness, the observation of the Tribunal are culled out as follows:

"4. That as discernible from the aforesaid notice u/s. 143(2) of the Act, there is no signature of the competent authority issuing the said notice. The name and designation is mentioned as Amrit Kumar, Ward-3(1), Raipur but neither there is any signature nor there is any seal of the jurisdictional officer and both the places of signature as well as seal in the aforesaid notice are left blank.

5. In this regard, the Ld. Sr. DR could not place on record any evidence refuting these facts on record. However, she submitted that since the notice has been sent through electronic form, therefore, there was no requirement for such signature of the issuing authority and even without such signature, the notice u/s. 143(2) of the Act was valid. The Ld. Sr. DR has placed reliance on the decision of the Hon'ble Jurisdictional High Court in the case of Bharat Krishi Kendra Vs. Union of India, WPT No.27 of 2022, dated 15.03.2022. The Ld. Sr. DR refers to Para 14 of the said decision which reads as follows:

"14. Third submission of learned counsel for petitioner is that approval granted under Section 151 of the Act of 1961 does not bear digital signature of authority, referring to note appended to approval (Annexure P-5), is concerned, the note appended says "if digitally signed, the date of digital signature may be taken as date of document". Submission of learned counsel for petitioner, in the opinion of this Court, is not acceptable in view of provisions of Section 282 (a) of the Act of 1961, which provides that notice or other documents to be issued for the purpose of the Act of 1961 by any income-tax authority shall be deemed to be authenticated if name and designation is provided. In approval under Section 151 of the Act of 1961, name, designation and office is printed. Hence, submission of learned counsel for petitioner that approval is not digitally signed is also not sustainable, more so when it bears DIN & Document Number."

6. That before responding to the submissions of the Ld. Sr. DR, it would be pertinent to extract the provision of Section 282A of the Act which reads as follows:

"**282A.** (1) Where this Act requires a notice or other document to be issued by any income-tax authority, such notice or other document shall be signed and issued in paper form or communicated in electronic form by that authority in accordance with such procedure as may be prescribed.

(2) Every notice or other document to be issued, served or given for the purposes of this Act by any income-tax authority, shall be deemed to be authenticated if the name and office of a designated income-tax authority is printed, stamped or otherwise written thereon.

(3) For the purposes of this section, a designated income-tax authority shall mean any income-tax authority authorised by the Board to issue, serve or give such notice or other document after authentication in the manner as provided in sub- section (2)."

7. The intention of the legislature is very clear so far as the aforesaid provision of the Act is concerned, wherein at Clause (1), it states that Where this Act requires a notice or other document to **be issued by any income-tax authority, such notice or other document shall be signed and issued in paper form or communicated in electronic form by that authority** in accordance with such procedure as may be prescribed. In other words, it is mandatory that any notice or document i.e. issued by the Income Tax Authority to the assessee such notice or document "shall be signed". Suppose if the intention of the legislature was that such kind of signature is not mandatory, the word "shall" would have been replaced by "will". However, when the word "shall" has been used, it prescribes the mandatory requirement for signature of any notice or documents whether issued in paper form or communicated in electronic form to the assessee and, therefore, the submissions of the Ld. Sr. DR that since such notice u/s. 143(2) of the Act has been issued in electronic form, hence no signature is required is incorrect and not in conformity with Section 282A(1) of the Act. The reference made by the Ld. Sr. DR with regard to the judgment of the Hon'ble Jurisdictional High Court (supra), the same deals with **firstly**, Section 151 of the Act and not with regard to notice u/s. 143(2) of the Act; and **secondly**, the Hon'ble High Court has observed that "…….. notice or other documents to be issued for the purpose of the Act of 1961 by any **income-tax authority shall be deemed to be authenticated** if name and designation is provided……". In fact, the Hon'ble High Court (supra) in Para-14 of the judgment refers to Section 282A(2) of the Act. For the sake of completeness, the same is extracted as follows:

"(2) Every notice or other document to be issued, served or given for the purposes of this Act by any income-tax authority, shall be deemed to be authenticated if the name and office of a designated income-tax authority is printed, stamped or otherwise written thereon."

8. It is crystal clear from joint reading of Para-14 of the decision of the Hon'ble High Court (supra) and Clause (2) of Section 282A of the Act, that the Hon'ble High Court has referred deeming provision with regard to the authentication in respect of notice or other document if the name and office of a designated income-tax authority is printed, stamped or otherwise written thereon. There is no dispute that as per requirement of the provision for authentication of such notice, the presence of name and office of the designated Incomer Tax Authority, if it is printed etc. then it shall be deemed to be authenticated. However, this provision does not supersedes Clause (1) of Section 282A of the Act where it is mandatory first and foremost that the competent Income Tax Authority issuing any notice shall sign such notice or other document irrespective of such notice issued either on paper form or communicated through electronic form. Meaning thereby, signing of notice issued to the assessee is mandatory and that is not dispensed with by the deeming provision of Clause (2) to Section 282A of the Act which is only with regard to authentication of such notice. "Authentication" essentially refers to making the assessee aware that such notice has been issued from Income Tax Department and such authentication shall deemed to exist if the name and office of the competent Income Tax Authority is mentioned in the notice but that does not provide any relaxation for application of Section 282A(1) of the Act regarding mandatorily signing of notice even if such notice is sent to the assessee in electronic form.

9. Reverting to the facts of the present case, it is crystal clear that such notice u/s. 143(2) of the Act which has been issued to the assessee was unsigned. The revenue has not placed on record any evidence contrary to the facts on record.

10. The **Hon'ble High Court of Bombay** in the case of **Prakash Kirshnavtar Bhardwaj Vs. Income Tax Officer, Ward-2(1), NFAC, Pune WP No.9835 of 2022, dated 09.01.2023** on the similar issue has held and observed as follows:

"19. Applying the ratio of the judgment of the Calcutta High Court in B.K. Gooyee and Aparna Agency (P.) Ltd. (supra) to the facts of the present case, the signature of the Assessing Officer admittedly not having been affixed on the notice issued u/s.148 of the Act, the notice itself would be invalid and consequently, the Assessing Officer could not assume jurisdiction to proceed in the matter in terms of section 148 of the Act. The Madhya Pradesh High Court in Umashankar Mishra (supra) has dealt with a similar fact situation where the first substantial question of law dealt with in that case had considered the effect of whether an unsigned notice can be considered as an irregularity or clerical mistake. The Madhya Pradesh High Court after making reference to the conclusions drawn in B.K.Gooyee (supra) by the Calcutta High Court, has taken the view, that a notice without a signature affixed on it is an invalid notice and is effectively no notice in the eyes of law.

20. The Madhya Pradesh High Court in Umashankar (supra) has further dealt with the second substantial question of law as to whether the Tribunal was right in holding that the absence of a signature on the notice constitutes a mistake or omission within the meaning of section 292B of the Act and while addressing itself to that question, has concluded that in the absence of a signature on the notice, the same would not constitute a mistake or omission and would not be curable under the provisions of section 292B of the Act.

21. We are, therefore, of the considered opinion that in the present case, the notice u/s.148 dated 02.04.2022 having no signature affixed on it, digitally or manually, the same is invalid and would not vest the Assessing Officer with any further jurisdiction to proceed to reassess the income of the petitioner. Consequently, the notice dated 02.04.2022 u/s.148 of the Act issued to the petitioner being invalid and sought to be issued after three years from the end of the relevant assessment year 2015-16 with which we are concerned in this petition, any steps taken by the respondents in furtherance of notice dated 21.03.2022 issued under clause (b) of section 148A of the Act and order dated 02.04.2022 issued under clause (d) of section 148A of the Act, would be without jurisdiction, and therefore, arbitrary and contrary to Article 14 of the Constitution of India. Consequently, we quash and set aside the notice dated 02.04.2022 issued by the respondents u/s.148 of the Act, order dated 02.04.2022 under clause (b) of section 148A of the Act and notice dated 21.03.2022 issued under clause (b) of section 148A of the Act."

11. Further the Hon'ble Supreme Court in the case of **ACIT Vs. Hotel Blue Moon, 321 ITR 362 (SC)** has held that issuance of notice u/s. 143(2) of the Act is sine-qua-non for framing of an assessment u/s. 143(3) of the Act. Also, the **Hon'ble High Court of Delhi** in the case of **Shaily Juneja Vs. ACIT, (2024) 167 taxmann.com 90 (Delhi)** has dealt with the similar issue and held that issuance of notice u/s. 143(2) of the Act is mandatory in reassessment proceedings u/s. 147 of the Act.

12. Considering the facts and circumstances in this case and as per the aforesaid judicial pronouncements a/w. relevant provisions of the Act, I am of the considered view that since in this case notice u/s. 143(2) of the Act issued to the assessee was left unsigned and blank therefore it is violative of Section 282A(1) of the Act, hence, such notice is held invalid, arbitrary and void ab initio.

13. That once the very notice u/s.143(2) of the Act is invalid, void ab initio, hence, the A.O ceases to possess any valid inherent jurisdiction to complete the assessment u/s.143(3) of the Act which is therefore, quashed.

14. That since the assessment itself is quashed, thereafter all other proceedings becomes non-est as per law. Since the legal issue has been answered in favour of the assessee therefore the grounds on merits becomes academic only.

15. As per the aforesaid terms the grounds of appeal raised by the assessee stands allowed.

16. In the result, appeal of the assessee is allowed."

5. Considering the facts and circumstances in this case and as per the aforesaid judicial pronouncements a/w. relevant provisions of the Act, I am of the considered view that since in this case notice u/s. 148 of the Act issued to the assessee was left unsigned and blank therefore it is violative of Section 282A(1) of the Act, hence, such notice is held invalid, arbitrary and void ab initio.

6. That once the very notice u/s.148 of the Act is invalid, void ab initio, hence, the A.O ceases to possess any valid inherent jurisdiction to complete the reassessment u/s.143(3) r.w.s 147 of the Act which is therefore, quashed.

7. That since the reassessment itself is quashed, thereafter all other proceedings becomes non-est as per law. Since the legal issue has been answered in favour of the

> assessee therefore the grounds on merits becomes academic only.
>
> 8. As per the aforesaid terms the grounds of appeal raised by the assessee stands allowed.
>
> 9. In the result, appeal of the assessee is allowed."

5. Therefore, the Tribunal in its wisdom and reasoning providing strict compliance to Section 282A(1) of the Act has held that the notice u/s. 148 of the Act issued to the assessee was left unsigned and blank and in violation of provisions of Section 282A(1) of the Act, hence, such notice was held invalid, arbitrary and void ab initio and there is no mistake much the less mistake apparent on record in the order of the Tribunal, since the order is passed based on the provisions of law as enshrined in the Income Tax Act itself namely provisions of Section 282A(1) of the Act.

6. That further, in the miscellaneous application the Revenue has assailed as follows:

> "The decision of the Hon'ble ITAT is not acceptable as per the merits of the case because it has been observed from the case record that the notice u/s. 148 of the Act, dated 27.03.2018 was duly signed by the Assessing Officer and the same was dispatched and served on the assessee through post on 31.03.2018. Hon'ble ITAT has failed to appreciate the above facts. In view of the above, Misc. Application for rectification of mistake apparent from record may be filed with a request to recall its order passed in ITA No.362/RPR/2025 and the Misc. Application may be filed on the following grounds……"

The Revenue contended at the stage of Miscellaneous application that the notice u/s. 148 of the Act, dated 27.03.2018 was duly signed by the A.O

and the same was dispatched and served through post on 31.03.2018. But this fact was never assailed by the Ld. Sr. DR at the time of hearing of the original matter. Now assailing some new facts in the miscellaneous application is beyond the scope and jurisdiction of Section 254(2) of the Act which does not vest any power with the Tribunal to revisit and review for verification of new facts.

7. The Ld. Sr. DR failed to point out any mistake which is apparent, obvious, patent and glaring. There are series of decisions by the Hon'ble Supreme Court as well as Hon'ble High Court expounding scope of exercising powers under section 254(2) of the Act. I do not deem it necessary to recite and recapitulate all of them, but suffice to say that core of all these authoritative pronouncements is that power for rectification under section 254(2) of the Act can be exercised only when mistake, which is sought to be rectified, is an obvious and patent mistake, which is apparent from the record and not a mistake, which is required to be established by arguments and long drawn process of reasoning on points, on which there may conceivably be two opinions.

8. My aforesaid view is supported by the judgment of the **Hon'ble Supreme Court** in the case of **T.S. Balaram, ITO v. Volkart Bros., (1971) 82 ITR 50 (SC)**, wherein the Hon'ble Apex Court had held as under:

> " ....A mistake apparent on the record must be an obvious and patent mistake and not something which can be established by a long-drawn process of reasoning on points on which there may conceivably be two opinions. As seen earlier, the High Court of Bombay opined that the original assessments were in accordance with law though in our opinion the High Court was not justified in going into that question.....an error which has to be established by a long-drawn process of reasoning on points where there may conceivably be two opinions cannot be said to be an error apparent on the face of the record. A decision on debatable point of law is not a mistake apparent from the record....."

Also, a similar view had been taken by the **Hon'ble Supreme Court** in the case of **Commissioner of Income Tax (IT-4) Vs. Reliance Telecom Ltd., (2021) 133 taxmann.com 41 (SC)**, wherein it was held as under:

> "From the impugned judgment and order passed by the High Court, it appears that the High Court has dismissed the writ petitions by observing that (i) the Revenue itself had in detail gone into merits of the case before the ITAT and the parties filed detailed submissions based on which the ITAT passed its order recalling its earlier order; (ii) the Revenue had not contended that the ITAT had become functus officio after delivering its original order and that if it had to relook/revisit the order, it must be for limited purpose as permitted by Section 254(2) of the Act; and (iii) that the merits might have been decided erroneously but ITAT had the jurisdiction and within its powers it may pass an erroneous order and that such objections had not been raised before ITAT.
>
> 6. None of the aforesaid grounds are tenable in law. Merely because the Revenue might have in detail gone into the merits of the case before the ITAT and merely because the parties might have filed detailed submissions, it does not confer jurisdiction upon the ITAT to pass the order de hors Section 254(2) of the Act. **As observed hereinabove, the powers under Section 254(2) of the Act are only to correct and/or rectify the mistake apparent from the record and not beyond that**"

9. The **Hon'ble High Court of Bombay** in the case of **CIT Vs. Ramesh Electric & Trading Company reported as 203 ITR 497 (Bom.)** has held that the scope of section 254(2) is limited to rectification of mistake apparent from record itself and not rectification in error of judgment. The relevant observations of the Hon'ble High Court are as under:

> "*The Tribunal cannot, in exercise of its power of rectification, look into some other circumstances which would support or not support its conclusion so arrived at. The mistake which the Tribunal is entitled to correct is not an error of judgment but a mistake which is apparent from the record itself.*"

10. Accordingly, the miscellaneous application filed by the revenue u/s.254(2) of the Act is dismissed as devoid and bereft of any merit.

11. In the result, miscellaneous application filed by the revenue is dismissed.

Order pronounced in open court on 10th day of February, 2026.

Sd/-
(**PARTHA SARATHI CHAUDHURY**)
न्यायिक सदस्य/JUDICIAL MEMBER

रायपुर / Raipur; दिनांक / Dated : 10th February, 2026
SB, Sr. PS

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT-1, Raipur (C.G.)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "**एक-सदस्य**" बेंच,

रायपुर / DR, ITAT, "SMC" Bench, Raipur.

5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, **रायपुर** / ITAT, Raipur