

आयकर अपीलीय अधिकरण न्यायपीठ रायपुर में।
IN THE INCOME TAX APPELLATE TRIBUNAL,
RAIPUR BENCH, RAIPUR

BEFORE SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER
AND
SHRI AVDHESH KUMAR MISHRA, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.401/RPR/2025
निर्धारण वर्ष / Assessment Year : 2015-16

Sudhir Kumar Singhal
Flat No.827/4, Urban Estate Sector-4,
Grugram (formerly known as Gurgaon)
Haryana-123 001
PAN: AKXPS6012R

.....अपीलार्थी / Appellant

बनाम / V/s.

The Income Tax Officer,
Ward-Dhamtari (C.G.)

.....प्रत्यर्थी / Respondent

Assessee by : Shri Sunil Kumar Agrawal, CA
Revenue by : Dr. Priyanka Patel, Sr. DR

सुनवाई की तारीख / Date of Hearing : 11.02.2026

घोषणा की तारीख / Date of Pronouncement : 19.02.2026

आदेश / ORDER

PER PARTHA SARATHI CHAUDHURY, JM:

The present appeal preferred by the assessee emanates from the order of the Ld.CIT(Appeals)/NFAC, dated 07.04.2025 for the assessment year 2015-16 as per the grounds of appeal on record.

2. In this case, the assessee has raised both legal grounds as well as grounds on merits. The Ld. Counsel for the assessee submitted that he would assail the legal ground first and if the said legal ground is answered affirmative, then the grounds on merits shall become academic only.

3. The contention in law raised by the Ld. Counsel for the assessee was that the A.O had not issued any notice u/s.143(2) of the Income Tax Act, 1961 (for short 'the Act') before framing the assessment u/s.147 r.w.s. 144B of the Act, dated 25.03.2023 for A.Y.2015-16.

4. In this regard, the stand of the Department was that the assessee being issued a notice u/s.148 of the Act on 30.03.2022 requiring him to furnish within 30 days from the service of the said notice, a return in the prescribed form for the A.Y. 2015-16. However, the assessee had filed return of income in response to the notice u/s.148 of the Act after the expiry of time prescribed. Such belated return, therefore, cannot be treated as a valid return for the purpose of Section 143(2) of the Act, and hence,

there was no requirement of issuance of separate notice u/s. 143(2) of the Act in respect of such invalid return. The aforesaid observation finds place in the report of the A.O, Dhamtari, dated 10.11.2025 and the relevant para is extracted as follows:

“On the facts of the case, it is submitted that the assessee was issued notice u/s.148 of the Act on 30.03.2022 requiring him to furnish within 30 days from the service of this notice, a return in the prescribed form for the Assessment Year 2015-16, the assessee filed the return of income in response to notice u/s.148 after the expiry of time prescribed. Such belated return cannot be treated as a valid return for the purpose of section 143(2). Hence, there was no requirement for issuance of separate notice u/s.143(2). The reassessment framed u/s.147 r.w.s. 144B, is valid in law. Further, the assessee had participated in the entire reassessment proceedings without raising any objection, attracting the provisions of section 292BB. Therefore, the assessment cannot be held invalid merely on technical grounds. The objection of the assessee may kindly be rejected.”

5. In this regard, the contention of the assessee was that the assessee had filed return of income in response to the notice u/s. 148 of the Act on 31.01.2023 declaring income of Rs.3,91,550/- which was considered by the A.O as base figure for computing and assessing income at Rs.1,14,04,047/- which means the A.O had treated the return of income as validly filed by the assessee. That once, assessment was completed u/s. 147 r.w.s. 144B of the Act based on a valid return of income, in such scenario, non-issuance of notice u/s.143(2) of the Act makes such assessment bad in law and void ab initio, hence liable to be quashed.

6. Per contra, the Ld. Sr. DR had filed written submission dated 12.11.2025 which reads as follows:



Government of India
Ministry of Finance: Department of Revenue
CENTRAL BOARD OF DIRECT TAXES
OFFICE OF THE Jt. COMMISSIONER OF INCOME TAX (ITAT), Raipur (C.G.)
F.No. JCIT (ITAT)/RPR/Report/2025-26/ Date 12.11.2025

To,

The Hon'ble Member(s),
ITAT, Raipur.

Respected Sir(s),

Subject: - Submission of report in the case of Sudhir Kumar Singhal, in ITA No. 401/RPR/2025, for A.Y. 2015-16 - reg.

Kindly refer to the above.

I strongly oppose the submissions of the assessee mainly on legal grounds. As per the provisions of section 148, the Assessing Officer is required to serve on the assessee a notice requiring him to furnish a return of his income for the relevant assessment year, "in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed, and the provisions of this Act shall, so far as may be, apply accordingly as if such return were a re-turn required to be furnished under section 139".

In this case, since there was no valid return in existence, the question of compliance with section 143(2) does not arise. The proviso is applicable to a valid return and not to an invalid return. Thus, since there was no valid return in existence, the question of compliance with section 143(2) does not arise. It is a settled principle that a legal fiction has to be taken to its logical conclusion and "therefore, what is valid for a return under section 139 will be valid with equal force to a return filed under section 148"

In case the assessee has not filed a valid return, so, issue of notice was not condition precedent for the completion of the assessment. In such cases, the Assessing Officer was bound to complete the assessment not under section 143(3) [for the completion of assessment under the section required filing of a valid return by the assessee and thereafter issue of notice under section 143(2) of the Act] nor under section 144 [as this require non-filing of a return under sub-section (1) of section 139, or a belated re-turn under sub-section (4) of section 139 or a revised return under sub-section (5) of section 139 or fails to comply with the terms of notice under section 142(1) or section 143(2) of the Act], but under section 147 itself. In such case assessment has to be completed under section 147 itself which provides that the Assessing Officer may, "subject to the provisions of sections 148 to 153, assess or reasons such income and also any other income chargeable to tax which has escaped as-

Without prejudice to this line of argument, it is submitted that the assessee regularly attended the assessment proceedings in response to notice under section 144 issued earlier. Therefore, assessee acquiesced to the proceedings by participating in the subsequent to the filing of its letter. The theory of acquiescence is that a conduct, which is evidence of an intention of a party to abandon an equitable right from which the another party will be justified in inferring such an intention, will deprive a person from raising a ground at a subsequent stage that he has been deprived of such a right. Having participated in the assessment proceedings, the assessee, at this stage, cannot question the validity of the proceedings (on the ground of non-service of notice) in which he has so participated without any objection. Since, the assessee has raised a hyper technical issue, in all fairness even revenue should be allowed to raise the technical objections. It is also submitted that since revenue has a foolproof case on merits and the assessee is now cornered, the assessee is taking the cover of these technicalities. Further, whether such omission is covered by the provisions of section 292B of the Act is to be considered in the light of the facts of the case. Reliance is placed on the judgment of Hon'ble Supreme Court, in the case of Commissioner of Income Tax, Shillong v. Jai Prakash Singh. [1996] 219 ITR 7374 in support of the proposition that an omission to serve or any defect in the service of notice does not efface or erase any liability to pay tax where such liability is created by distinct substantive provisions. We are thus urged to reject the objections raised by the assessee. The contentions of the assessee challenging legality of the assessment proceedings are, on this basis, claimed to be legally untenable.

Submitted for kind consideration.

Your sincerely,



(Dr. Priyanka Patel)

Jt. Commissioner of Income Tax, ITAT
Raipur.

7. We have carefully considered the submissions of the parties herein, documents available on record, analyzed the facts and circumstances of the case as well as judicial pronouncements placed on record. That even without going into the merits of the matter, we would adjudicate the

contention of law as raised by the Ld. Counsel for the assessee regarding non-issuance of any notice u/s. 143(2) of the Act before completion of assessment u/s. 147 r.w.s. 144B of the Act and that in such a case what would be the fate of such assessment.

8. It is an admitted fact that the assessee had filed return of income in response to the notice u/s. 148 of the Act on 31.01.2023, declaring income of Rs.3,91,550/- which was considered by the A.O for computing and assessing income at Rs.1,14,04,047/- and therefore, the said return which was filed in consequence to notice u/s.148 of the Act was treated as valid return of income by the A.O and once that is so, we do not find any infirmity with the arguments raised by the Ld. Counsel for the assessee that since there has been no notice issued to the assessee u/s.143(2) of the Act, hence, assessment is liable to be quashed as invalid assessment. We are not in agreement with the submissions of the Ld. Sr. DR. That it is an admitted fact the A.O had completed the assessment u/s. 147 r.w.s. 144B of the Act on the basis of the return of income filed by the assessee in pursuance to notice u/s. 148 of the Act that itself signifies that the A.O had considered the return of income as valid and on that basis, proceeded to frame the assessment as per the relevant provisions of the Act. Therefore, contention of the Ld. Sr. DR that since the return of income was itself invalid, there was no occasion for the Department to issue notice

u/s. 143(2) of the Act, does not hold the ground and is absolutely incorrect and misplaced in the given facts and circumstances of the assessee's case.

9. We find that the **Hon'ble Apex 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. Similarly, 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.

10. The Ld. Sr. DR has also submitted that "*Further, whether such omission is covered by the provisions of Section 292BB of the Act is to be considered in the light of the facts of the case....*".

11. In this regard, we refer once again to the decision of the **Hon'ble High Court of Delhi** in the case of **Shaily Juneja Vs. ACIT (supra)**, wherein the Hon'ble High Court had referred to a judgment of **Hon'ble High Court of Allahabad** in the case of **CIT Vs. Salarpur Cold Storage (P) Ltd. (2014) 50 taxmann.com 105 (Allahabad)**, wherein this very argument of the Ld. Sr. DR has been dealt with. It was held that Section 292BB of the Act provides a deeming fiction. The deeming fiction is to the effect that once the assessee has appeared in any proceeding or co-operated in any enquiry relating to an assessment or reassessment, it shall

be deemed that any notice under the provisions of the Act, which is required to be served on the assessee, has been duly served upon him. In other words, once deeming section comes into operation, the assessee is precluded from raising a challenge about service of the notice. The proviso to Section 292BB of the Act, however, states an exception to the effect that the section shall not apply where the assessee has raised an objection before the completion of the assessment or reassessment. The Hon'ble Allahabad High Court on analyzing of the said provision had given categorical findings that Section 292BB of the Act cannot obviate the requirement or complying with a jurisdictional condition. Therefore, for the Assessing Officer to make an order of assessment u/s.143(3) of the Act, it is necessary to issue a notice u/s.143(2) of the Act and in the absence of a notice u/s.143(2) of the Act, the assumption of jurisdiction itself would be invalid. What essentially the Court had held is that Section 292BB of the Act provides deeming fiction, however, that deeming fiction cannot override the jurisdictional condition which is validly cast upon the A.O as per provisions of the Act. Meaning thereby, it is mandatory for the A.O to issue notice u/s.143(2) of the Act before completion of assessment u/s. 143(3)/144B or 147/144B of the Act.

12. The **Hon'ble High Court of Calcutta** in the case of **Pr. Commissioner of Income Tax Vs. Shree Shoppers Ltd. (2023) NYPCTR 379 (Cal.)** had held that it is a settled position of law that for carrying out

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, subsequent proceedings becomes invalid. The **Hon'ble High Court of Bombay** in the case of **Ashok Devichand Jain Vs. Union of India, (2023) 151 taxmann.com 70 (Bombay)** had held that any statutory notice, if issued, without valid inherent jurisdiction or if not issued at all, they resulted in an inherent defect in the entire procedure which is not curable.

13. The Co-ordinate Bench of the Tribunal, Delhi in the case of **DCIT Vs. Ashutosh Foods, ITA No.234/Del/2025 & CO No.228/Del/2025, A.Y.2015-16, dated 14.01.2026** had dismissed the Revenue's appeal and allowed the assessee's cross objection by quashing reassessment for A.Y.2015-16 on the ground that no mandatory notice u/s. 143(2) of the Act was issued to the assessee before completion of the reassessment. That on plain reading of Section 143(2) of the Act, notice u/s. 143(2) of the Act is required to be issued in a case whether return has been furnished u/s. 139 of the Act or in response to notice u/s. 142(1) of the Act or in pursuance to notice u/s. 148 of the Act.

14. In the present case, admittedly the assessee had furnished return of income in response to notice u/s. 148 of the Act and that further, the A.O had also taken into account the return of income filed by the assessee for the purpose of reassessment which is clearly evident from the assessment

order. Therefore, once the A.O considers the return of income furnished by the assessee in response to notice u/s. 148 of the Act, in our considered view, then the A.O is bound to issue notice u/s. 143(2) of the Act before completion of the reassessment. Similar view was upheld by the Co-ordinate Bench of the Tribunal, Hyderabad in the case of **Gangaram Reddy Tekulapalli, Hyderabad Vs. ITO, Int. Taxn.2, Hyderabad, ITA Nos.786 & 787/Hyd./2024, dated 10.09.2025, A.Y.2014-15**, taking guidance from the decision of the Hon'ble Apex Court in the case of ACIT Vs. Hotel Blue Moon (supra).

15. Reverting to the facts of the present case, the A.O had taken into account the return of income filed by the assessee on 31.01.2023 in response to the notice u/s. 148 of the Act, but failed to issue statutory notice u/s. 143(2) of the Act. Therefore, in our considered view, as per examination on record in the foregoing paras and as per the judicial principles enshrined therein, since the reassessment was framed without issuance of notice u/s. 143(2) of the Act, the said reassessment order is held to be arbitrary, bad in law and void ab initio, hence quashed.

16. That once reassessment itself is quashed, all other subsequent proceedings becomes non-est as per law. That since on this legal issue, relief has been provided to the assessee, all other grounds, if any, becomes academic only.

17. As per the above terms grounds of appeal raised by the assessee are allowed.

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

Order pronounced in the open court on 19th February, 2026.

Sd/-
AVDHESH KUMAR MISHRA
(ACCOUNTANT MEMBER)

Sd/-
PARTHA SARATHI CHAUDHURY
(JUDICIAL MEMBER)

रायपुर/ RAIPUR ; दिनांक / Dated : 19th February, 2026.
SB, Sr. PS

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

1. अपीलार्थी /The Appellant.
2. प्रत्यर्थी /The Respondent.
3. The CIT(Appeals)-1, Raipur (C.G.)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर बेंच,
रायपुर / DR, ITAT, Raipur Bench, Raipur.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

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