

**IN THE INCOME TAX APPELLATE TRIBUNAL
"D" BENCH, AHMEDABAD**

**BEFORE DR. B.R.R. KUMAR, VICE-PRESIDENT
MS. SUCHITRA R. KAMBLE, JUDICIAL MEMBER**

ITA No.114/Ahd/2023

&

ITA Nos.1371 & 1372/Ahd/2024

(Assessment Year: 2013-14)

Jaswant N. Soni, C/o. M.S. Chhajer & Co., Chartered Accountants, Kamal Shanti, Nr. Usmanpura Under Bridge, Ahmedabad- 380014 [PAN : JOMPS 1353 M]	Vs.	Income Tax Officer, Ward 1, (Int. Taxn), Ahmedabad
(Appellant)	..	(Respondent)
Appellant represented by :	Shri M.S. Chhajer, AR	
Respondent represented by:	Shri Sher Singh, CIT (DR) & Shri Pradeep Sharma, Sr. DR	
Date of Hearing	17.12.2025	
Date of Pronouncement	25.02.2026	

ORDER

PER DR. B.R.R. KUMAR, VICE-PRESIDENT:-

These three appeals have been preferred by the assessee against separate orders passed by the lower authorities for Assessment Year 2013-14. The first appeal is directed against the order dated 20.01.2023 passed by the Income-tax Officer, Ward-1, International Taxation, Ahmedabad u/s 147 r.w.s. 144 of the Income-tax Act, 1961 (hereinafter referred to as "the Act"), wherein the Assessing Officer gave effect to the directions issued by the Dispute Resolution Panel u/s 144C(5) of the Act. The second appeal is directed against the order dated 22.05.2024 passed by the Ld. Commissioner of Income-tax (Appeals), Ahmedabad [hereinafter referred to as "the Ld. CIT(A)"], arising out of penalty proceedings u/s 271(1)(c) of the Act. The third appeal is directed against the order dated 22.05.2024 passed by the Ld. CIT(A), arising out of penalty proceedings u/s 271F of the Act.

2. Since all the appeals pertain to same assessee, same assessment year and involve connected issues, they are being disposed of by way of this consolidated order.

ITA No. 114/Ahd/2023

3. The assessee has raised following grounds of appeal:-

"1. The order passed by the Ld. CIT(A) is against law, equity & Justice.

2. The Ld. AO has erred in law and facts in making addition of Rs.1,79,90,500/- as unexplained investment u/s 69 of the Act."

3.1 The assessee has raised following additional grounds of appeal:-

"1. The assessment order passed by the Ld. AO without issuing notice u/s 143(2) of the Act is void and not tenable in eyes of law.

2. Reopening of assessment is bad and illegal as the Ld. AO has not supplied the reasons recorded for reopening of assessment."

4. At the outset, the additional grounds raised by the assessee being legal in nature and going to the root of the matter are admitted for adjudication.

5. The chronological chart of events as emerging from the records is reproduced below:

Particulars	Date
Date of notice U/S 148 of the Act	31.03.2021
Time limit mentioned in notice U/s 148 of the Act	30.04.2021
Extended due date for compliance under the Act, in accordance with the Decision of Hon'ble Supreme Court in suo moto cognizance for extension of limitation period reported in [2022] 134 taxmann.com 307 (SC)/[2022]/441 ITR 722(SC)/[2022] for limitation arising during the period of 15.03.2020 to 28.02.2022	29.05.2022
Date of Filing of return under section 148 of the Act	10.02.2022
Time Limit for issuance of notice U/s 143(2) of the Act	30.09.2022
Date of issuance of Notice U/s 143(2) of the Act	Not issued
Due date of passing the order U/s 147 of the Act	31.03.2023
Date of assessment order U/s 147 rws 144 of the Act	20.01.2023

6. The Ld. AR submitted that after filing of return in response to notice u/s 148 of the Act, no notice u/s 143(2) was issued within the statutory time limit. Therefore, the assessment order is *void ab initio*.

7. The Ld. DR, on the basis of clarification from the Jurisdictional Assessing Officer and perusal of assessment records, submitted that the impugned order was passed u/s 144 r.w.s. 147 of the Act and not u/s 143(3) of the Act. It was contended that since the assessment was framed u/s section 144 of the Act, issuance of notice u/s 143(2) was not mandatory and therefore no such notice was issued.

8. We have carefully considered the rival submissions and perused the record. It is an admitted position that the assessee filed return of income on 10.02.2022 in response to notice issued u/s 148 of the Act. It is further undisputed fact that no notice u/s 143(2) of the Act was issued within the prescribed time limit or thereafter. The contention of the Revenue is that since the assessment was ultimately framed u/s 144 of the Act, the requirement of issuance of notice u/s 143(2) of the Act stood dispensed with is not an acceptable contention. Once a return of income is filed in response to notice u/s 148 of the Act, the Assessing Officer is required to follow the procedure prescribed for making assessment u/s 143(3) of the Act. Issuance of notice under section 143(2) is a mandatory statutory requirement for assuming jurisdiction to scrutinize the return so filed. The subsequent framing of assessment u/s 144 due to alleged non-compliance does not obviate the necessity of issuing notice u/s 143(2) of the Act.

9. In the present case, admittedly, no notice u/s 143(2) was issued at any stage. The absence of such notice goes to the root of the jurisdiction of the Assessing Officer and renders the assessment order invalid in the eyes of law. Accordingly, we hold that the assessment order dated 20.01.2023 passed u/s

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147 r.w.s 144 of the is *void ab initio* for want of mandatory notice u/s 143(2) of the Act.

10. In view of our decision on the legal issue, the grounds raised on merits regarding addition of Rs. 1,79,90,500/- u/s 69 of the Act are rendered academic and are not adjudicated.

Accordingly, ITA No. 114/Ahd/2023 is allowed.

Penalty Appeals – Sections 271(1)(c) and 271F of the Act

11. In view of the above, the penalty levied u/s 271(1)(c) & 271F of the Act does not survive and is hereby deleted.

12. In the result, all the three appeals of the assessee are allowed.

Order pronounced in the open court on 25.02.2026

Sd/-

**(SUCHITRA R. KAMBLE)
JUDICIAL MEMBER**

Ahmedabad; Dated 25.02.2026

**btk

Sd/-

**(DR. B.R.R. KUMAR)
VICE-PRESIDENT**

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent.
3. संबंधितआयकरआयुक्त/ Concerned CIT
4. आयकरआयुक्त(□ पील) /The CIT(A)-
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, अहमदाबाद/ DR, ITAT, Ahmedabad
6. गार्डफाईल /Guard file.

आदेशानुसार/ BY ORDER,

True Copy

सहायकपंजीकार (Dy./Asstt. Registrar)
आयकरअपीलीयअधिकरण, अहमदाबाद / ITAT, Ahmedabad