

Ashok Kumar Agarwal (HUF)

ITA No . 1/KOL/2025

ITAT • Kolkata | Source extract brief | 7 source pages

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01 FACTS OF THE CASE

"This is an appeal preferred by the assessee against the order of the National Faceless Appeal Centre, Delhi (hereinafter referred to as the "Ld. CIT(A)") dated 20.11.2024 for the AY 2017-18. 02. The assessee has challenged the assessment framed by the Id. AO on the ground that no notice u/s 143(2) of the Act has been issued by the jurisdictional Assessing Officer. Besides, the assessee has challenged the assessment on the ground that the notice u/s 143(2) of the Act was not in conformity with the instruction issued by CBDT instruction No.1/2011 (F. No. 187/12/2010-IT(A-1), Dated 31.01.2011." (source PDF page 1)

02 DISCUSSION BY THE HON'BLE TRIBUNAL

"we find that the notice issued u/s 143(2) dated 9th August, 2017 was not in any of the formats as provided in the CBDT instruction F.No.225/157/2017/ITA -II dated 23.06.2017. We have examined the notice, copy of which is available at page no.1 of the Paper Book and find that the same is not as per the format of CBDT Instruction F.No. 225/157/2017/ITA-II dated 23.06.2017 as stated above. In our opinion, the instruction issued by the CBDT are mandatory and binding on the Income tax authorities failing which the proceedings would be rendered as invalid. Hon'ble Apex Court in case of UCO Bank (supra) held that the circular issued by CBDT in exercise of its statutory powers u/s 119 of the Act, are binding on the authorities. The Hon'ble Apex court held as under:- "The Central Board of Direct ..." (source PDF page 4)

03 JUDICIAL DECISION

"In the result, the appeal of the assessee is allowed." (source PDF page 6)

04 OUTCOME — IN FAVOUR OF

Assessee, for the issues disposed of in the quoted result. Check the full reasoning for whether relief is substantive or procedural, and verify subsequent proceedings before relying on it.

05 AKHB REVIEW POINT

Read the numbered grounds and operative reasoning together. Match the statutory provision, assessment year, jurisdiction and material facts before relying on this order; check later appeals, stays and amendments.

SOURCE & VERIFICATION

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AI DISCLOSURE

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