

Commissioner of Income Tax v. Laxman Das Khandelwal

Civil Appeal Nos. 6261-6262 of 2019 / Arising out of SLP (Civil) Nos. 19320-19321 of 2019
[2019] 10 SCR 24 | 2019-08-13

Whether an assessee's participation enables section 292BB to cure the department's complete failure to issue a required section 143(2) notice.

143(2) | 292BB

2-judge bench | Uday Umesh Lalit, J. | Vineet Saran, J.

Assessment years: See the source-scope notes; no year inferred.

01 FACTS OF THE CASE

The assessee, an individual carrying on brokerage business, was searched at his residence on 11 March 2010 and filed a return on 24 August 2011 declaring Rs. 9,35,130. The officer made additions concerning cash, jewellery, hundies and cash receipts. After partial relief from the Commissioner (Appeals), Revenue appealed to the Tribunal and the assessee cross-objected that no section 143(2) notice had been issued (paragraph 3).

The Tribunal upheld the cross-objection and quashed the proceedings. Its finding, quoted by the Court, was that the matter concerned the search year, the officer had completed a regular section 143(3) assessment, and no section 143(2) notice had been issued before completion. The department had not controverted those facts. The Madhya Pradesh High Court upheld the result and rejected review; Revenue challenged both orders in the Supreme Court (paragraphs 2-4).

Revenue relied on participation in the assessment and section 292BB. The assessee maintained that this was complete non-issuance, established by the record and Revenue's appeal grounds, rather than a defect in serving an existing notice (paragraphs 4 and 7).

Source: [reported judgment / paragraphs 2-4; 7 / PDF pages 3, 4, 6, 7 / judgment](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court referred to Hotel Blue Moon for the mandatory notice requirement where section 143(2) applies. It then isolated the question whether section 292BB, effective from 1 April 2008, altered the consequence of complete non-issuance. The quoted Hotel Blue Moon discussion and reproduced search-assessment history are context for that question, not a fresh holding on every possible section 153A assessment (paragraphs 5-8).

Section 292BB creates a deeming rule where an assessee has appeared or cooperated: objections that a notice was not served, not served in time or served improperly may be foreclosed. The Court reproduced the proviso preserving an objection raised before completion of assessment or reassessment. That statutory proviso must not disappear from a summary of the participation rule (paragraphs 6-7).

The decisive distinction was between infirmities in service of a notice and the complete absence of the notice itself. A notice must have emanated from the department before section 292BB can cure service defects. Participation cannot manufacture a notice that was never issued. On the clear factual record, no section 143(2) notice had ever been issued, so the Tribunal and High Court were correct (paragraphs 9-10).

Source: [reported judgment / paragraphs 5-10 / PDF pages 4, 5, 6, 7 / judgment](#); [official signed judgment / paragraphs 6-10 / PDF pages 5, 6, 7, 8 / judgment](#)

03 JUDICIAL DECISION

Both Revenue appeals were dismissed without costs. The High Court and Tribunal conclusions quashing the proceedings for complete absence of the required section 143(2) notice were left undisturbed (paragraphs 10-11).

Source: [reported judgment / paragraphs 10-11 / PDF pages 7 / judgment](#); [official signed judgment / paragraphs 10-11 / PDF pages 7, 8 / judgment](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee

Revenue appeals dismissed; no costs; quashing of the impugned proceedings sustained

Final notice/jurisdiction determination; underlying additions not decided on their substantive merits

Complete non-issuance on the established record, despite participation. Service defects relating to an issued notice remain a distinct question under section 292BB and its proviso. The decision does not independently settle every search-assessment regime.

Source: [official signed judgment / paragraphs 11 / PDF pages 8 / judgment](#)

05 AKHB REVIEW POINT

Separate the evidence of issuance from evidence of delivery and participation. Obtain the actual notice, issue/dispatch record, service record and dates of objection rather than using non-service and non-issuance interchangeably. Laxman Das addresses a notice that never emanated from the department; a missing or delayed service event involves a different statutory enquiry.

When applying section 292BB, preserve the proviso for objections raised before completion. Identify the governing assessment procedure and why section 143(2) is required before invoking this ruling; do not transform the quoted search-year history into a universal holding on all section 153A cases. The Supreme Court decided the notice question, not the correctness of the cash or jewellery additions. Verify the applicable historical text and subsequent law separately.

Source: [reported judgment](#) / [paragraphs 3-10](#) / [PDF pages 3, 4, 5, 6, 7](#) / [judgment](#)

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

143(3); 132; 69; 153A; 153D; 142; 158BC

PROVISION-SPECIFIC SCOPE

1.

Act: Income-tax Act, 1961

Section: 143(2); 292BB

Role: principal notice and curative provisions

Basis: Complete non-issuance of mandatory notice cannot be supplied by the section 292BB legal fiction concerning service.

2.

Act: Income-tax Act, 1961

Section: 143(3)

Role: assessment context

Basis: The quoted Tribunal finding characterises the impugned assessment as regular assessment.

3.

Act: Income-tax Act, 1961

Section: 132; 69; 153A; 153D

Role: quoted factual/procedural background

Basis: Search, additions and inconsistent statutory descriptions appear in the reproduced history; no independent holding on each is made.

4.

Act: Income-tax Act, 1961

Section: 142; 158BC

Role: Hotel Blue Moon context

Basis: Quoted authority explains mandatory notice in the block-assessment setting; not an independent adjudication of all search-regime requirements.

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Uday Umesh Lalit, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

Hon'ble Supreme Court source PDF (official signed judgment)

Identified source rendition: 8 PDF pages; SHA-256

5b5249f9719e3ad0d6cc2827e4d0672c8142f7d24e489259b72b200994934632. Original bytes preserved.

Judicial text paragraphs 1-11 on physical pages 1-8; signatures and date on page 8.

Cover, signatures/date, selected substantive passages and operative disposition checked against the fully read reported judicial text; no claim of an independent full reread of this separate rendition.

Open cited source rendition

No assessment year is expressly identified in the reviewed judicial body; none has been silently inferred.

The reproduced history alternates assessment/reassessment labels and references 153(D), 153A and 143A. The operative rule is based on a required section 143(2) notice never being issued; the note does not silently repair those source references into a broader regime holding.

The quoted history contains inconsistent cash-receipt amounts. Those monetary figures are not used as merits findings or reconciled by conjecture.

Section 292BB's pre-completion-objection proviso is preserved; the case is not a blanket waiver-by-participation decision.

Reported citation verified on the reported cover. No neutral citation inferred from catalogue metadata.

The reviewed judgment does not expressly label an assessment year. It records a search on 11 March 2010 and quotes a finding that the matter concerns the search year and regular section 143(3) assessment; no assessment-year label is inferred for publication.

STATUTORY SCOPE

Section 292BB, effective from 1 April 2008 and reproduced with its proviso, and the requirement of section 143(2) in the regular assessment recorded in this case. No comprehensive statement about every search-assessment regime.

No automatic Income-tax Act, 2025 crosswalk, present-law certification or comprehensive later-treatment audit.

LATER TREATMENT

Source checked 2026-10-04. Subsequent judicial treatment and later statutory changes have not been comprehensively verified. Any separately identified intra-proceeding link is limited to the two reviewed decisions and is not a citator or current-law certificate.

IDENTIFIED SOURCE LINKS

[official signed judgment - PDF pages: 8](#)

SHA-256: 5b5249f9719e3ad0d6cc2827e4d0672c8142f7d24e489259b72b200994934632

[reported judgment - PDF pages: 7](#)

SHA-256: f8a90f3d67c18bbbe1e35c8c35a63121a334f116ebd3574393df951e4575479e

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