

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "A" NEW DELHI**

**BEFORE SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER
AND
SHRI M BALAGANESH, ACCOUNTANT MEMBER**

आ.अ.सं./I.T.A No.1425/Del/2024
निर्धारणवर्ष/**Assessment Year: 2021-22**

SHILPI SARDANA, B-99, Swastya Vihar, Lakshmi Nagar, S.O. East Delhi. PAN No.BWUPS9736E	बनाम Vs.	DEPUTY COMMISSIONER OF INCOME TAX, Central Circle-31, Room No.343, E-2, ARA Centre, Jhandewalan Extn., Delhi.
अपीलार्थी Appellant		प्रत्यर्थी/ Respondent

Assessee by	Shri Prashant Meharchandani, Adv. & Ms. Kanika Jain, Adv.
Revenue by	Shri Manish Gupta, Sr. DR

सुनवाईकीतारीख/ Date of hearing:	19.08.2025
उद्घोषणाकीतारीख/ Pronouncement on	27.08.2025

आदेश /O R D E R

PER C.N. PRASAD, J.M.

This appeal is filed by the Assessee against the order of the Ld. Commissioner of Income Tax (Appeals)-NFAC, Delhi dated 29.01.2024 for the AY 2021-22. The assessee in her appeal raised the following grounds:

“Ground 1 Validity of assessment proceedings/order

Ground 1.1

That on the facts and circumstances of the case and in law, the impugned assessment completed vide order dated 29.12.2022 passed by the Assessing Officer u/s 143(3) of the Act being barred by limitation is illegal, bad in law and is void ab initio and thus liable to be quashed.

Ground 1.2

That on the facts and circumstances of the case and in law, Assessing Officer while passing the assessment order mentioned the objections raised in the case of some other appellant, hence impugned order passed in a haste manner, without any application of mind and thus liable to be quashed.

Ground 1.3

That on the facts and circumstances of the case and in law such DIN, which does not even exist on the Income Tax portal, is invalid and non-est.

Ground 1.4

That on the facts and circumstances of the case and in law, since the impugned order is non-est, invalid, the additions made therein are invalid, beyond jurisdiction and bad in law.

Ground 2 Alleged addition of unexplained cash to the income of the appellant

Ground 2.1

That the Assessing Officer erred on facts and in law in adding an amount of Rs.1,77,00,000/- to the total income merely on the basis that amount is appearing in a random WhatsApp chat between one Mr. Parveen Kumar Jain and Mr. Nilesh Shah.

Ground 2.2

That the Assessing Officer erred on facts and in law in not bringing any material/evidence on record that the alleged income was received by the appellant.

Ground 2.3

The said addition is unjustified, arbitrary and not sustainable either on the facts or on law and is being challenged by virtue of this appeal.

Ground 2.4

The order appealed against is contrary to the facts, law and principles of natural justice. The appellant craves leave to add delete modify or substitute any or all the grounds of appeal at any appropriate time.”

2. The assessee also filed application seeking admission of additional ground of appeal stating as under:

1. “It is submitted that the notice under Section 143(2) issued by the Ld. AO on 30.06.2022 is in violation of Instruction F.No.225/157/2017/ITA-II dated 23.06.2017 (‘Instruction’) issued by the Central Board of Direct Taxes (‘CBDT’). Therefore, the said notice is invalid, and assessment framed pursuant thereto is vitiated in law and void ab-initio. The legal and factual background is briefly set out below:

Instruction F.No.225/157/2017/ITA-II dated 23.06.2017

2. CBDT has prescribed mandatory guidelines vide the Instruction prescribing the form in which assessing officers are required to issue a notice under Section 143(2) for initiation of scrutiny assessment proceedings. As per the Instruction, three separate formats were prescribed for notice under Section 143(2) for the following cases:

- a. Limited scrutiny (Computer Aided Scrutiny Selected)
 - b. Complete scrutiny (Computer Aided Scrutiny Selected)
 - c. Compulsory manual scrutiny
3. The assessing officers are mandatorily required to follow the format prescribed under the Instruction and specify in the notice under Section 143(2) as to whether the assessment proceedings are being initiated for limited, complete or compulsory manual scrutiny. A copy of the Instruction is enclosed as Annexure A.

Notice under Section 143(2) dated 30.06.2022 issued to Appellant
4. In the present case, the notice under Section 143(2) dated 30.06.2022 issued to the Appellant is not in the prescribed format and does not specify as to whether the assessment proceedings have been initiated for limited, complete or compulsory manual scrutiny. A copy of the notice dated 30.06.2022 is enclosed as Annexure B.
5. Presently, since the notice under Section 143(2) dated 30.06.2022 is not in the prescribed format, it is in violation of the mandatory terms of the Instruction and hence, void in law. Accordingly, the assessment order dated 29.12.2022 emanating from such vitiated assessment proceedings is void ab initio and deserves to be set aside.

Judicial precedents

6. Reliance in this regard is placed on the decision of this Hon'ble Tribunal in Anita Garg v. Income-tax Officer, Ward 2(3)(4), I.T.A No.4053/Del/2024 wherein this Hon'ble Tribunal has quashed the assessment order pursuant to notice issued under Section 143(2) which was not in the format prescribed under the CBDT notice:

“9...we hold that the assessment framed by the Assessing Officer u/s 143(3) dated 27.12.2019 pursuant to the notice issued u/s 143(2) dated 22.09.2018 which was not in the prescribed format as notified by the CBDT, is bad in law and void ab initio and the same is hereby quashed. The additional ground no.2 raised by the Assessee is allowed”

7. Further, in the case of Ankur Dealcom Pvt Ltd. v. PCIT, ITA No. 197/Kol/2025 the Hon'ble Kolkata bench of this Hon'ble Tribunal took a similar view in an appeal pertaining to AY 2021 -22 (same as the AY in present appeal) and quashed the assessment order since the notice under Section 143(2) was not in the prescribed format.

8. In light of the above, the Appellant wishes to crave the leave of this Hon'ble Tribunal to file additional ground of appeal, as ground of appeal number 1.5, involving a question of law as provided below:

“1.5. That on the facts and circumstances of the case, the Assessing Officer erred in issuing notice under Section 143(2) of the Income Tax Act, 1961 dated 30.06.2022 in violation of CBDT Instruction F.No.225/157/2017/ITA-II dated 23.06.2017. Therefore, the said notice is invalid, and assessment framed pursuant thereto is vitiated in law, void ab-initio and liable to be quashed.”

9. It is submitted that the issue involved in the additional ground of appeal is purely a question of law and all relevant facts necessary for adjudication of the same are already on record and do not require any fresh investigation into facts. It is further submitted that this is an issue on jurisdiction of Ld. AO which goes to the root of the matter, and it is well settled law that issues related to lack of jurisdiction can be raised by an assessee for the first time even at appellate levels. In light of the aforesaid, the Appellant humbly prays this Hon'ble Tribunal to exercise the power prescribed in Rule 11

of the Income-tax (Appellate Tribunal) Rules, 1963 and admit the additional ground of appeal.

10. The aforesaid right of the Appellant to raise an additional ground before an appellate forum has been accepted by various courts. Reliance in this regard is placed on the following judgments:

- Jute Corporation of India Ltd v CIT [(1991) 187 ITR 688 (SC)]*
- National Thermal Power Co Ltd v CIT [(1998) 229 ITR 393 (SC)]*
- Maruti Udyog Limited v CIT [252 ITR 482 (Delhi)]*

In the interest of justice, the Appellant prays that this Hon'ble ITAT may be pleased to admit and adjudicate the above-stated additional ground of appeal for which it shall remain most grateful."

3. Ld. Counsel for the assessee, at the outset, submits that additional ground of appeal filed by the assessee is a legal ground going to the root of the very validity of framing the assessment and therefore the same may be admitted for adjudication. Reliance was placed on the decision of the Hon'ble Supreme Court in the case of National Thermal Power Company Ltd. vs. CIT (229 ITR 383).

4. Heard rival submissions. The additional ground raised by the assessee since going to the root of the very validity of the

assessment made based on the notice issued u/s 143(2) the same is admitted for adjudication.

5. Ld. Counsel for the assessee submitted that the notice issued u/s 143(2) by the Assessing Officer on 30.06.2022 is *void ab initio* having been issued in violation of the binding CBDT Instruction No. F.No.225/157/2017/ITA-II dated 23.06.2017. Ld. Counsel submits that the CBDT u/s 119 of the Act issued the above instructions prescribing mandatory revised formats for all scrutiny notices issued u/s 143(2) of the Act. He submitted that these instructions are binding on all the Income tax authorities and placed reliance on the decision of the Hon'ble Supreme Court in the case of UCO Bank vs. CIT (237 ITR 889) and Back Office IT Solution Pvt. Ltd. vs. Union of India (2021) SCC OnLine (Del) 2741. Ld. Counsel for the assessee referring to para 3 of the above instructions of CBDT submitted that the Board has directed that all scrutiny notices u/s 143(2) of the Act shall henceforth be issued in the revised formats only. The Ld. Counsel for the assessee submits that in the present case the Assessing Officer did not issue the notice in the prescribed revised format and this is a direct violation of the CBDT's binding

instructions. Ld. Counsel placed reliance on the following decisions:

1. “Anita Garg vs. ITO, ITA No.4053/Del/2024 dated 30.07.2025;
2. Ankur Dealcom (P) Ltd. vs. PCIT, ITA No.197/Kol/2025 dated 18.07.2025;
3. Hind Ceramics Pvt. Ltd. vs. DCIT, Circle - 10(1) [ITA Nos. 608 & 610/KOL/2024] dated 06.05.2025;
4. Tapas Kumar Das v. ITO, Ward-50(5), Kolkata [ITA No. 1660/KOL/2024] dated 11.03.2025;
5. Sajal Biswas v. I.T.O, WD 24(1), HOOGHLY [I.T.O, WD 24(1), HOOGHLY] [ITA No.1244/KOL/2023] dated 26.03.2025.”

6. The Ld. Counsel for the assessee further submitted that the issuance of notice u/s 143(2) in proper format is a jurisdictional requirement and any defect therein goes to the root of the assessment proceedings. A notice issued in violation of law cannot confer jurisdiction on the Assessing Officer to proceed with scrutiny assessment. Therefore, he submits that the notice dated 22.09.2018 issued u/s 143(2) is invalid and un-enforceable in law.

7. Heard rival contentions, perused the materials placed before us and the case laws relied on. The contention of the

assessee that the notice issued u/s 143(2) dated 30.06.2022 by the AO is in violation of the CBDT instruction dated 23.06.2017 as it is not in the specified format. This fact was not controverted by the Revenue before us.

8. We observed that on identical situation the Kolkata Bench of the Tribunal in the case of Hind Cyramics Pvt. Ltd. vs. DCIT in ITA Nos. 608 & 610/Kol/2024 dated 06.05.2025 quashed the assessment framed pursuant to the notice issued u/s 143(2) which was not in the prescribed format as per the CBDT instructions observing as under:

“011. After hearing the rival contentions and perusing the material on record, we find that the assessee has raised an additional grounds of appeal challenging the validity of the notice issued u/s 143(2) of the Act being in an invalid format and in our opinion the issued raised in the additional grounds is a purely a legal issue qua which all the facts are available in the appeal folder and no further verification of facts is required from any quarter whatsoever. In our considered view the assessee is at liberty to raise any legal issue before any appellate authority for the first time even when the same has not been raised before the lower authorities. The case of the assessee is squarely covered by the decisions of the Apex court in the case of i) Jute Corporation of India Ltd. Vs CIT (supra) ii) National Thermal Power Co. Ltd v. CIT (supra) and also by the decision of Hon'ble Calcutta High Court in PCIT vs. Britannia Industries Ltd. (supra). Therefore, we are inclined to admit the same for adjudication.

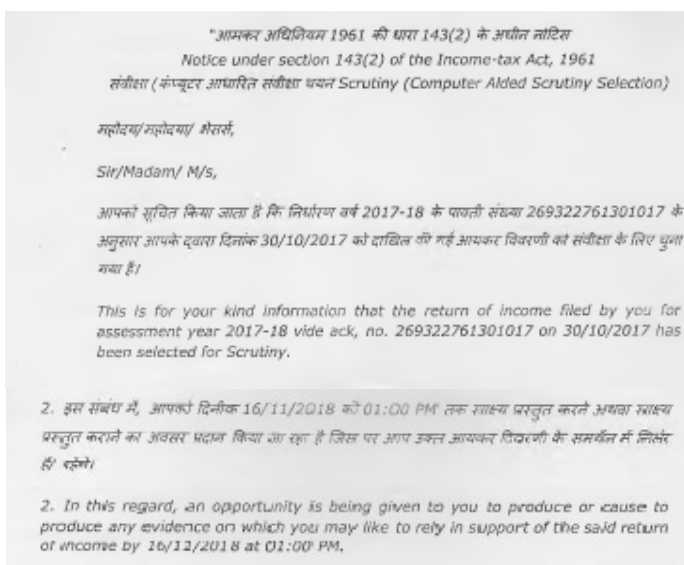
012. The Id. AR vehemently submitted that the notice u/s 143(2) of the Act issued to the assessee did not specify whether it was a limited scrutiny or a complete scrutiny or a compulsory manual scrutiny. The Id. AR submitted that the CBDT has issued specifically provided vide instruction no. F. No. 225/157/2017/ITA-II Dated 23-06-2017, that the notice u/s 143(2) can be issued in one of the three format which have specifically prescribed but the present notice issued is not in accordance with

such said instruction and therefore, the assessment framed consequently is invalid and void ab initio.

013. The Id. DR on the other hand submitted that this is a computer-generated notice and the non-mentioning of the fact of either limited or complete scrutiny or compulsory manual scrutiny would not render the issuance of notice u/s 143(2) of the Act as invalid. Therefore, additional ground raised by the assessee may kindly be dismissed.

014. After hearing the rival contentions and perusing the materials available on record, we find that undisputedly the notice issued u/s 143(2) of the Act dated 09.08.2018, specifies only computer aided scrutiny selection which neither mentioned it either to be a limited or a complete scrutiny nor compulsory manual scrutiny. Thus, the said notice has been issued in violation of the instruction issued by CBDT as noted above. In our opinion, the revenue authorities have to follow the instruction issued by CBDT and violation thereto would certainly render the notice as invalid with the result all the consequential proceeding would also be invalid. The case of the assessee find support from the decision of the co-ordinate Bench in the case of Tapas Kumar Das Vs. ITO (supra), wherein a similar issue has been decided in favour of the assessee. The operative part of the same is extracted below:-

"6. After hearing the rival contentions and perusing the materials available on record, we find that particularly the notice was issued u/s 143(2) of the Act, a copy of which is available at page no. 25 of the Paper Book. We note that the said notice has not been issued in consonance with the CBDT Instruction F No. 225/157/2017/ITA-II Dated 23.06.2017. The said notice is extracted below for the sake of ready reference:-



3. उपर्युक्त निर्दिष्ट धारा 143(2) के अधिनियम के अन्तर्गत माध्यम से इलेक्ट्रॉनिक रूप में incometaxindiaefiling.gov.in पर अपनी ई-फाइलिंग खाता द्वारा प्रस्तुत किया जाना है। यदि कोई निष्पक्ष कार्यवाही और अग्रसर विभागा की ई-कार्यवाही सुविधा द्वारा की जायेगी। 'ई-कार्यवाही' पर एक संक्षिप्त नोट आपके संदर्भ के लिए संलग्न है।

3. The evidence/information specified above has to be furnished online electronically through your E-filing account in incometaxindiaefiling.gov.in. Subsequent assessment proceedings shall also be conducted electronically through the 'E-Proceeding' facility of Income-tax Department. A brief note on 'E-Proceeding' is enclosed for your kind reference.

4. निर्धारण कार्यवाही के दौरान, यदि आवश्यक होगा तो सूचना / दस्तावेज हेतु विशेष प्रश्नावली (यों) या अधिमागना (यों) को खद में जारी किया जाएगा।

4. In course of assessment proceedings, if required, specific questionnaire(s) or requisition(s) for information/document shall be issued subsequently.

5. कृपया ध्यान दें कि यदि आपके पास ई-फाइलिंग खाता है तो आपके लिए पैरा 3 लागू है। आपके द्वारा स्वयं अपना खाता न बनाई तब निर्धारण कार्यवाही आपके द्वारा चालित की गई ई-मेल

is created by you, assessment proceedings shall be carried out either through your specified e mail account or manually (if e mail is not available).

संलग्नक : यथावत
Enclosure as above"

7. In our opinion, the notice issued u/s 143(2) of the Act which is not in the prescribed format as provided under the Act is an invalid notice and accordingly, all the subsequent proceedings thereto would be invalid and void ab initio. The case of the assessee find support from the decision of Shib Nath Ghosh Vs. ITO in ITA No. 1812/KOL/2024 for A.Y. 2018-19 vide order dated 29.11.2024, wherein the co-ordinate Bench has held as under: -

"10. After hearing both the sides and the materials available on record, 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 Taxes under section 119 of the Income-tax Act, 1961, has power, inter alia, to tone down the rigour of the law and ensure a fair enforcement of its provisions, by issuing circulars in exercise of its statutory powers under section 119 of the Act which are binding on the authorities in the administration of the Act. Under section 119(2)(a), however, the circulars as contemplated therein cannot be adverse to the assessee.

The power is given for the purpose of just, proper and efficient management of the work of assessment and in public interest. It is a beneficial power given to the Board for proper administration of fiscal law so that undue hardship may not be caused to the assessee and the fiscal laws may be correctly applied. Hard cases Which can be properly categorized as belonging to a class, can thus be given the benefit of relaxation of law by Issuing circulars binding on the taxing authorities.

In order to aid proper determination of the income of money lenders and banks, the Central Board of Direct Taxes issued a circular dated October 6, 1952, providing that where interest accruing on doubtful debts is credited to a suspense account, It need not be included in the assessee's taxable income, provided the Income-tax Officer is satisfied that recovery is practically improbable. Twenty-six years later, on June 20, 1978, in view of the judgment of the Kerala High Court In STATE BANK OF TRAVANCORE v. CIT [1977] 110 ITR 336, the Board by another circular, withdrew with immediate effect the earlier circular. However, by circular dated October 9, 1984, the Board decided that Interest in respect of doubtful debts credited to suspense account by banking companies would be subjected to tax but Interest charged in an account where there has been no recovery for three consecutive accounting years would not be subjected to tax in the fourth year and onwards. The circular also stated that if there is any recovery in the fourth year or later, the actual amount recovered only would be subjected to tax in the respective years. This procedure would apply to assessment year 1979-80 and onwards."

8. Considering the facts of the instant case in the light of the decision of the co-ordinate bench, we are inclined to hold that notice issued u/s 143(2) of the Act is invalid notice and accordingly, the assessment framed consequentially to that is also invalid and is hereby quashed.

9. The other grounds raised on merit are not being decided at this stage and are being left open to be decided if need arises for the same at later stage.

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

015. Since the facts of the assessee's case are similar to one as decided by the co-ordinate Bench, we therefore, respectfully following the same hold that the notice issued u/s 143(2) of the Act is invalid notice and accordingly, the assessment framed

consequently is also invalid and is hereby quashed. The additional ground raised by the assessee is allowed."

9. Similar view has been taken by the Kolkata Bench of the Tribunal in the case of Sajal Biswas vs. ITO in ITA No. 1244/Kol/2023 dated 26.03.2025, Srimanta Kumar Shit vs. ACIT in ITA No.1911/Kol/2024 dated 19.11.2024, Tapas Kumar vs. ITO in ITA No.1660/Kol/2025 dated 11.3.2025. We observed that coordinate bench of Delhi Bench had taken similar view in the case of Anita Garg vs. ITO (supra). Therefore, facts being identical respectfully following the above said decisions, we hold that the assessment framed by the Assessing Officer u/s 143(3) dated 29.12.2022 pursuant to the notice issued u/s 143(2) dated 30.06.2022 which was not in the prescribed format as notified by the CBDT, is bad in law and *void ab initio* and the same is hereby quashed. The additional ground no.2 raised by the Assessee is allowed.

10. Since we have quashed the assessment allowing additional ground, all other grounds are not adjudicated as they become only academic at this stage.

11. In the result, appeal of the assessee is partly allowed as indicated above.

Order pronounced in the open court on 27.08.2025

Sd/-
(M BALAGANESH)
ACCOUNTANT MEMBER

Sd/-
(C.N. PRASAD)
JUDICIAL MEMBER

Dated: 27.08.2025

**Kavita Arora, Sr. P.S.*

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "G" NEW DELHI**

**BEFORE SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER
AND
SHRI M BALAGANESH, ACCOUNTANT MEMBER**

आ.अ.सं./I.T.A No.5568/Del/2024
निर्धारणवर्ष/**Assessment Year: 2017-18**

SARBJIT SHARMA 36, GF, Paschimi Marg, Vasant Vihar, Vasant Vihar-1, South West Delhi. PAN No.AABPS4256R	बनाम Vs.	ITO, Ward 61(3), Delhi.
अपीलार्थी Appellant		प्रत्यर्थी/ Respondent

Assessee by	Shri Ved Jain, Adv. & Ms. Uma Upadhyay, CA
Revenue by	Shri Manish Gupta, Sr. DR

सुनवाईकीतारीख/ Date of hearing:	19.08.2025
उद्घोषणाकीतारीख/ Pronouncement on	27.08.2025

आदेश /O R D E R

PER C.N. PRASAD, J.M.

This appeal is filed by the Assessee against the order of the
Ld. Commissioner of Income Tax (Appeals)-NFAC, Delhi dated
22.11.2024 for the **AY 2017-18**. The assessee in her appeal raised
the following grounds:

1. *“On the facts and circumstances of the case, the order passed by the Ld. CIT(Appeals), Income Tax Department, National Faceless Appeal Centre [CIT(A), ITD, NFAC] is bad both in the eye of law and on facts.*
2. *On the facts and circumstances of the case, the Ld. CIT(A), ITD has erred both on facts and in law in passing the order ex parte without providing the assessee reasonable opportunity of being heard violating the principle of natural justice.*
3. *On the facts and circumstances of the case, the order passed by the Ld. CIT(A), ITD is bad in the eyes of law and on facts as the same has been passed without giving any finding on the merits of the case.*
4. *On the facts and circumstances of the case, the Ld. CIT(A), ITD has erred both on facts and in law in confirming the action of the AO despite the fact that the order passed by him u/s 143(3) of the Income Tax Act is barred by limitation since the same is passed beyond the specified time limit.*
5. *On the facts and circumstances of the case, the Ld.CIT(A), ITD has erred both on facts and in law in confirming the addition of Rs.15,00,000/- on account of cash deposit invoking the provisions of section 69A of the Act.*
6. *On the facts and circumstances of the case, the Ld. CIT(A), ITD has erred both on facts and in law in confirming the addition of Rs.5,00,000/- on account of cash advance received for legal expenses invoking the provisions of section 69A of the Act.*
7. *On the facts and circumstances of the case, the Ld. CIT(A), ITD has erred both on facts and in law in confirming the addition of Rs.36,00,000/- on account of cash advance received for legal expenses invoking the provisions of section 69A of the Act.*

8. *On the facts and circumstances of the case, the Ld.CIT(A), ITD has erred both on facts and in law in confirming the addition of Rs.38,80,000/- on account of amount received from Kirti Sharma and Travel Leaf India invoking the provisions of section 69A of the Act.*
9. *On the facts and circumstances of the case, the Ld. CIT(A), ITD has erred both on facts and in law in confirming the addition of Rs.20,00,000/- on account of gift received from Mother u/s 69A of the Income Tax Act.*
10. *On the facts and circumstances of the case, the Ld. CIT(A), ITD has grossly erred both on facts and in law in confirming the above said additions by invoking the provisions of section 69A which is not applicable to the facts of the case of the assessee.*
11. *On the facts and circumstances of the case, the Ld. CIT(A), ITD has grossly erred both on facts and in law in confirming the above said additions despite the fact that the same has been made by the AO by indulging in surmises without brining on any direct evidence against the assessee, only on the basis of presumption and assumption.*
12. *That the appellant craves leave to add, amend or alter any of the grounds of appeal.”*

2. The Assessee also filed application for admission of additional grounds stating as under:

- “1. The applicant has filed the above said appeal No. 5568/Del/2024 on 2nd December, 2024 against the order dated 22.11.2024 passed by the learned CIT(Appeals), Income Tax Department, National Faceless Appeal Centre, New Delhi under Section 250 of the Income Tax Act.

2. *That while filing the appeal, the applicant has raised 12 grounds of appeal.*
3. *However, while filing the appeal the appellant inadvertently has left out the ground of appeal relating to order passed by Ld. AO being null and void.*
4. *That accordingly, the applicant is filing additional ground of appeal.*
5. *That it is submitted that the following additional ground may kindly be taken as the same goes to the root of the issue and all the facts are already on record:*

13. "On the facts and circumstances of the case, the notice issued by the AO u/s 143(2) of the Act and the consequent assessment are invalid, illegal, non-est and liable to be quashed since the notice u/s 143(2) has been issued without following the procedure prescribed under CBDT Instruction F. No. 225/157/2017/ITA-II dated 23.06.2017."

6. *That the ground revised in this application is legal ground going to the root of the matter, and all the facts relating to the same are already part of record.*
7. *That in the circumstances, it is prayed that the additional grounds may be taken on record."*

3. Ld. Counsel for the assessee, at the outset, submits that additional ground of appeal filed by the assessee is a legal ground going to the root of the very validity of framing the assessment and therefore the same may be admitted for adjudication. Reliance was placed on the decision of the Hon'ble

Supreme Court in the case of National Thermal Power Company Ltd. vs. CIT (229 ITR 383).

4. Heard rival submissions. The additional ground raised by the assessee since going to the root of the very validity of the assessment made based on the notice issued u/s 143(2) the same is admitted for adjudication.

5. Ld. Counsel for the assessee submitted that the notice issued u/s 143(2) by the Assessing Officer on 21.08.2018 is *void ab initio* having been issued in violation of the binding CBDT Instruction No. F.No.225/157/2017/ITA-II dated 23.06.2017. Ld. Counsel submits that the CBDT u/s 119 of the Act issued the above instructions prescribing mandatory revised formats for all scrutiny notices issued u/s 143(2) of the Act. He submitted that these instructions are binding on all the Income tax authorities and placed reliance on the decision of the Hon'ble Supreme Court in the case of UCO Bank vs. CIT (237 ITR 889) and Back Office IT Solution Pvt. Ltd. vs. Union of India (2021) SCC OnLine (Del) 2741. Ld. Counsel for the assessee referring to para 3 of the above instructions of CBDT submitted that the Board has directed that all scrutiny notices u/s 143(2) of the Act shall henceforth be issued in the revised formats only. The Ld.

Counsel for the assessee submits that in the present case the Assessing Officer did not issue the notice in the prescribed revised format and this is a direct violation of the CBDT's binding instructions. Ld. Counsel placed reliance on the following decisions:

1. "Anita Garg vs. ITO, ITA No.4053/Del/2024 dated 30.07.2025;
2. Ankur Dealcom (P) Ltd. vs. PCIT, ITA No.197/Kol/2025 dated 18.07.2025;
3. Hind Ceramics Pvt. Ltd. vs. DCIT, Circle - 10(1) [ITA Nos. 608 & 610/KOL/2024] dated 06.05.2025;
4. Tapas Kumar Das v. ITO, Ward-50(5), Kolkata [ITA No. 1660/KOL/2024] dated 11.03.2025;
5. Sajal Biswas v. I.T.O, WD 24(1), HOOGHLY [I.T.O, WD 24(1), HOOGHLY] [ITA No.1244/KOL/2023] dated 26.03.2025.
6. M/s DURGA AUTOMOTIVES PVT. LTD. VS. DCIT, Circle-1, Siliguri 2025 (4) TMI 1668 - ITAT Kolkata Dated 22.4.2025;
7. SHIB NATH GHOSH VS. ITO, Ward 42(1), ITA No.1812/Kol/2024 ITAT Kolkata dated 29.11.2024"

6. The Ld. Counsel for the assessee further submitted that the issuance of notice u/s 143(2) in proper format is a jurisdictional requirement and any defect therein goes to the root of the assessment proceedings. A notice issued in violation of law

cannot confer jurisdiction on the Assessing Officer to proceed with scrutiny assessment. Therefore, he submits that the notice dated 21.08.2018 issued u/s 143(2) is invalid and un-enforceable in law.

7. Heard rival contentions, perused the materials placed before us and the case laws relied on. The contention of the assessee that the notice issued u/s 143(2) dated 21.08.2018 by the AO is in violation of the CBDT instruction dated 23.06.2017 as it is not in the specified format. This fact was not controverted by the Revenue before us.

8. We observed that on identical situation the Kolkata Bench of the Tribunal in the case of Hind Cyramics Pvt. Ltd. vs. DCIT in ITA Nos. 608 & 610/Kol/2024 dated 06.05.2025 quashed the assessment framed pursuant to the notice issued u/s 143(2) which was not in the prescribed format as per the CBDT instructions observing as under:

“011. After hearing the rival contentions and perusing the material on record, we find that the assessee has raised an additional grounds of appeal challenging the validity of the notice issued u/s 143(2) of the Act being in an invalid format and in our opinion the issued raised in the additional grounds is a purely a legal issue qua which all the facts are available in the appeal folder and no further verification of facts is required from any quarter whatsoever. In our considered view the assessee is at liberty to raise any legal issue before any appellate authority for the first time even when the same has not been raised before the

lower authorities. The case of the assessee is squarely covered by the decisions of the Apex court in the case of i) Jute Corporation of India Ltd. Vs CIT (supra) ii) National Thermal Power Co. Ltd v. CIT (supra) and also by the decision of Hon'ble Calcutta High Court in PCIT vs. Britannia Industries Ltd. (supra). Therefore, we are inclined to admit the same for adjudication.

012. The Id. AR vehemently submitted that the notice u/s 143(2) of the Act issued to the assessee did not specify whether it was a limited scrutiny or a complete scrutiny or a compulsory manual scrutiny. The Id. AR submitted that the CBDT has issued specifically provided vide instruction no. F. No. 225/157/2017/ITA-II Dated 23-06-2017, that the notice u/s 143(2) can be issued in one of the three format which have specifically prescribed but the present notice issued is not in accordance with such said instruction and therefore, the assessment framed consequently is invalid and void ab initio.

013. The Id. DR on the other hand submitted that this is a computer-generated notice and the non-mentioning of the fact of either limited or complete scrutiny or compulsory manual scrutiny would not render the issuance of notice u/s 143(2) of the Act as invalid. Therefore, additional ground raised by the assessee may kindly be dismissed.

014. After hearing the rival contentions and perusing the materials available on record, we find that undisputedly the notice issued u/s 143(2) of the Act dated 09.08.2018, specifies only computer aided scrutiny selection which neither mentioned it either to be a limited or a complete scrutiny nor compulsory manual scrutiny. Thus, the said notice has been issued in violation of the instruction issued by CBDT as noted above. In our opinion, the revenue authorities have to follow the instruction issued by CBDT and violation thereto would certainly render the notice as invalid with the result all the consequential proceeding would also be invalid. The case of the assessee find support from the decision of the co-ordinate Bench in the case of Tapas Kumar Das Vs. ITO (supra), wherein a similar issue has been decided in favour of the assessee. The operative part of the same is extracted below:-

"6. After hearing the rival contentions and perusing the materials available on record, we find that particularly the notice was issued u/s 143(2) of the Act, a copy of which is available at page no. 25 of the Paper Book. We note that the said notice has not been issued in consonance with the CBDT Instruction F No. 225/157/2017/ITA-II Dated 23.06.2017. The said notice is extracted below for the sake of ready reference:-

"आयकर अधिनियम 1961 की धारा 143(2) के अधीन नोटिस
Notice under section 143(2) of the Income-tax Act, 1961
सर्वीक्षा (कंप्यूटर आधारित सर्वीक्षा चयन Scrutiny (Computer Aided Scrutiny Selection))

महोदय/महोदय/ श्रीमान्,
Sir/Madam/ M/s,

आपको सूचित किया जाता है कि निर्धारण वर्ष 2017-18 के पत्रकी संख्या 269322761301017 के अनुसार आपके द्वारा दिनांक 30/10/2017 को दाखिल की गई आयकर विवरणी का सर्वीक्षा के लिए चुना गया है।

This is for your kind information that the return of income filed by you for assessment year 2017-18 vide ack, no. 269322761301017 on 30/10/2017 has been selected for Scrutiny.

2. इस संबंध में, आपको दिनांक 16/11/2018 को 01:00 PM तक राख्य प्रस्तुत करने अथवा राख्य प्रस्तुत करने का अवसर प्रदान किया जा रहा है जिस पर आप उक्त आयकर विवरणी के समर्थन में लिखेंगे।

2. In this regard, an opportunity is being given to you to produce or cause to produce any evidence on which you may like to rely in support of the said return of income by 16/11/2018 at 01:00 PM.

3. उपर्युक्त निर्दिष्ट धारा 143(2) के अधीन निर्धारण वर्ष 2017-18 के आयकर विवरण को आपकी ऑनलाइन माध्यम से इलेक्ट्रॉनिक रूप में incometaxindiaefiling.gov.in पर अपनी ई-फाइलिंग खाता द्वारा प्रस्तुत किया जाना है। बाद की निर्धारण कार्यवाही भी आयकर विभाग की ई-कार्यवाही सुविधा द्वारा की जाएगी। ई-कार्यवाही पर एक संबंधित नोट आपके संदर्भ के लिए संलग्न है।

3. The evidence/information specified above has to be furnished online electronically through your E-filing account in incometaxindiaefiling.gov.in. Subsequent assessment proceedings shall also be conducted electronically through the 'E-Proceeding' facility of Income-tax Department. A brief note on 'E-Proceeding' is enclosed for your kind reference.

4. निर्धारण कार्यवाही के दौरान, यदि आवश्यक होगा तो सूचना / दस्तावेज हेतु विलंब प्रस्तुतवाली (यों) या अधिमागना (यों) को खर्च नहीं जारी किया जाएगा।

4. In course of assessment proceedings, if required, specific questionnaire(s) or requisition(s) for information/document shall be issued subsequently.

5. कृपया ध्यान दें कि यदि आपके पास ई-फाइलिंग खाता है तो आपके लिए पैरा 3 लागू है। आपके द्वारा स्वयं अपना खाता न बना लें तक निर्धारण कार्यवाही आपके द्वारा चालित की गई ई-मेल द्वारा की जाएगी।

is created by you, assessment proceedings shall be carried out either through your specified e-mail account or manually (if e-mail is not available).

संलग्नक : यथापरि
Enclosure as above"

7. In our opinion, the notice issued u/s 143(2) of the Act which is not in the prescribed format as provided under the Act is an invalid notice and accordingly, all the subsequent proceedings thereto would be invalid and void ab initio. The case of the assessee find support from the decision of Shib Nath Ghosh Vs. ITO in ITA No. 1812/KOL/2024 for A.Y. 2018-19 vide order dated 29.11.2024, wherein the co-ordinate Bench has held as under: -

"10. After hearing both the sides and the materials available on record, 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 Taxes under section 119 of the Income-tax Act, 1961, has power, inter alia, to tone down the rigour of the law and ensure a fair enforcement of its provisions, by issuing circulars in exercise of its statutory powers under section 119 of the Act which are binding on the authorities in the administration of the Act. Under section 119(2)(a), however, the circulars as contemplated therein cannot be adverse to the assessee. The power is given for the purpose of just, proper and efficient management of the work of assessment and in public interest. It is a beneficial power given to the Board for proper administration of fiscal law so that undue hardship may not be caused to the assessee and the fiscal laws may be correctly applied. Hard cases Which can be properly categorized as belonging to a class, can thus be given the benefit of relaxation of law by Issuing circulars binding on the taxing authorities.

In order to aid proper determination of the income of money lenders and banks, the Central Board of Direct Taxes issued a circular dated October 6, 1952, providing that where interest accruing on doubtful debts is credited to a suspense account, It need not be included in the assessee's taxable income, provided the Income-tax Officer is satisfied that recovery is practically improbable. Twenty-six years later, on June 20, 1978, in view of the judgment of the Kerala High Court In STATE BANK OF TRAVANCORE v. CIT [1977] 110 ITR 336, the Board by another circular, withdrew with immediate effect the earlier circular. However, by circular dated October 9, 1984, the Board decided that Interest in respect of doubtful debts credited to suspense account by banking companies would be subjected to tax but Interest charged in an account where there has been no recovery for three consecutive accounting years would not be subjected to tax in the fourth year and onwards. The circular also stated that if there is any recovery in the fourth year or later, the actual amount recovered only would be subjected to tax in the respective years. This procedure would apply to assessment year 1979-80 and onwards."

8. *Considering the facts of the instant case in the light of the decision of the co-ordinate bench, we are inclined to hold that notice issued u/s 143(2) of the Act is invalid notice and accordingly, the assessment framed consequentially to that is also invalid and is hereby quashed.*

9. *The other grounds raised on merit are not being decided at this stage and are being left open to be decided if need arises for the same at later stage.*

10. *In the result, the appeal of the assessee is allowed."*

015. *Since the facts of the assessee's case are similar to one as decided by the co-ordinate Bench, we therefore, respectfully following the same hold that the notice issued u/s 143(2) of the Act is invalid notice and accordingly, the assessment framed consequentially is also invalid and is hereby quashed. The additional ground raised by the assessee is allowed."*

9. Similar view has been taken by the **Kolkata Bench of the Tribunal in the case of Sajal Biswas vs. ITO in ITA No. 1244/Kol/2023 dated 26.03.2025, Srimanta Kumar Shit vs. ACIT in ITA No.1911/Kol/2024 dated 19.11.2024, Tapas Kumar vs. ITO in ITA No.1660/Kol/2025 dated 11.3.2025.** We observed that coordinate bench of Delhi Bench had taken similar view in the case of **Anita Garg vs. ITO (supra).** Therefore, facts being identical respectfully following the above said decisions, **we hold that the assessment framed by the Assessing Officer u/s 143(3) dated 30.12.2019 pursuant to the notice issued u/s 143(2) dated 21.08.2018 which was not in the prescribed format as notified by the CBDT, is bad in law and void ab initio and the same is hereby**

quashed. The additional ground raised by the Assessee is allowed.

10. Since we have quashed the assessment allowing additional ground, all other grounds are not adjudicated as they become only academic at this stage.

11. In the result, appeal of the assessee is partly allowed as indicated above.

Order pronounced in the open court on 27.08.2025

Sd/-
(M BALAGANESH)
ACCOUNTANT MEMBER

Sd/-
(C.N. PRASAD)
JUDICIAL MEMBER

Dated: 27.08.2025

**Kavita Arora, Sr. P.S.*

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI

F.No. 225/157/2017/ITA.II
Government of India
Ministry of Finance
Department of Revenue (CBDT)

North Block, New Delhi, dated the 23rd of June, 2017

To

All Pr. CCsIT/Pr. CCIT(International-tax)/CCIT(Exemptions)/Pr. DsGIT

Sir/Madam

Subject: - Issue of notices under section 143(2) of Income-tax Act, 1961 in revised format-regd.-

With reference to the above, I am directed to state that Central Board of Direct Taxes has decided to modify format of notice(s) issued under section 143(2) of the Income-tax Act which intimate the concerned assessee about selection of his/her case for scrutiny. This has become necessary in view of Board's decision to utilise 'E-Proceeding' facility for electronic conduct of assessment proceedings in a widespread manner from this financial year.

2. The three formats of notice(s) are:

- Limited Scrutiny (Computer Aided Scrutiny Selection)
- Complete Scrutiny (Computer Aided Scrutiny Selection)
- Compulsory Manual Scrutiny

The revised format of 143(2) notice(s) with a note on benefits & Procedures of 'E-Proceeding' facility are enclosed for information of the field authorities.

3. I am further directed to state that all scrutiny notices under section 143(2) of the Act, shall henceforth, be issued in these revised formats only. The Systems Directorate is effecting necessary changes in the ITBA module in this regard.

4. The above may be brought to the notice of all for necessary compliance.

Enclosures(s): as above



(Rohit Garg)
Director-ITA.II, CBDT

Copy to:

- i. Chairman, CBDT and all Members, CBDT
- ii. Addl. CIT, Data base Cell for uploading on Departmental Website

Limited Scrutiny (Computer Aided Scrutiny Selection)

Notice under Section 143(2) of the Income-tax Act, 1961

PAN No:

Dated:

To

Sir/Madam

This is for your kind information that the return of income for Assessment Year..... filed vide ack. no. on..... has been selected for Scrutiny. Following issue(s) have been identified for examination:
.....

2. In view of the above, I would like to give you an opportunity to produce any evidence/information which you feel is necessary in support of the said return of income on or before.....
3. The above mentioned evidence/information is to be furnished online electronically in 'E-Proceeding' facility through your account in e-Filing website of Income-tax Department. Further proceedings shall also be conducted electronically (*). A brief note on salient features of 'E-Proceeding' is enclosed.
4. In case you do not wish to produce any evidence/information, as mentioned in para 2, you are requested to intimate the same electronically on or before.....
5. Specific questionnaires/requisition of information or documents would be sent subsequently, if required.
6. Para(s) (2) to (4) are applicable if you have an account in e-Filing website of Income-tax Department. Till such an account is created by you, assessment proceedings shall be carried out either through your e-mail account or manually (if e-mail is not available).

(*) Subject to exceptions as per the enclosed note

Seal

Yours faithfully,

(Name of the Assessing Officer)
(Designation)
(Telephone No./Fax No.)
(E-mail ID)

Complete Scrutiny (Computer Aided Scrutiny Selection)

Notice under Section 143(2) of the Income-tax Act, 1961

PAN No:

Dated:

To

Sir/Madam

This is for your kind information that the return of income for Assessment Year..... filed vide ack. no. on..... has been selected for Complete Scrutiny.

2. In view of the above, I would like to give you an opportunity to produce any evidence/information which you feel is necessary in support of the said return of income on or before.....
 3. The above mentioned evidence/information is to be furnished online electronically in 'E-Proceeding' facility through your account in e-Filing website of Income-tax Department. Further proceedings shall also be conducted electronically (*). A brief note on salient features of 'E-Proceeding' is enclosed.
 4. In case you do not wish to produce any evidence/information, as mentioned in para 2, you are requested to intimate the same electronically on or before.....
 5. Specific questionnaires/requisition of information or documents would be sent subsequently, if required.
 6. Para(s) (2) to (4) are applicable if you have an account in e-Filing website of Income-tax Department. Till such an account is created by you, assessment proceedings shall be carried out either through your e-mail account or manually (if e-mail is not available).
- (*) Subject to exceptions as per the enclosed note

Seal

Yours faithfully,

(Name of the Assessing Officer)
(Designation)
(Telephone No./Fax No.)
(E-mail ID)

Compulsory Manual Selection

Notice under Section 143(2) of the Income-tax Act, 1961

PAN No:

Dated:

To

Sir/Madam

This is for your kind information that the return of income for Assessment Year..... filed vide ack. no. on..... has been selected for Scrutiny on the basis of parameter at Para 1(.....) of Manual Compulsory Guidelines of CBDT issued vide Instruction No. dated

2. In view of the above, I would like to give you an opportunity to produce any evidence/information which you feel is necessary in support of the said return of income on or before.....
 3. The above mentioned evidence/information is to be furnished online electronically in 'E-Proceeding' facility through your account in e-Filing website of Income-tax Department. Further proceedings shall also be conducted electronically (*). A brief note on salient features of 'E-Proceeding' is enclosed.
 4. In case you do not wish to produce any evidence/information, as mentioned in para 2, you are requested to intimate the same electronically on or before.....
 5. Specific questionnaires/requisition of information or documents would be sent subsequently, if required.
 6. Para(s) (2) to (4) are applicable if you have an account in e-Filing website of Income-tax Department. Till such an account is created by you, assessment proceedings shall be carried out either through your e-mail account or manually (if e-mail is not available).
 7. In cases where order has to be passed under section 153A/153C of the Income-tax Act, 1961 read with section 143(3), assessment proceedings would be conducted manually.
- (*) Subject to exceptions as per the enclosed note

Seal

Yours faithfully,

(Name of the Assessing Officer)

(Designation)

(Telephone No./Fax No.)

(E-mail ID)

Salient features of 'E-Proceeding'

- As part of e-governance initiative to facilitate conduct of assessment proceedings electronically, Income-tax Department has launched 'E-Proceeding' facility. It is a simple way of communication between the Department and assessee, through electronic means, without the necessity to visit Income-tax Office for conduct of assessment proceedings. This taxpayer friendly measure would substantially reduce the compliance burden for the assessee.
 - In assessment proceeding, 'E-Proceeding' would enable seamless flow of Letter(s)/Notice(s), Questionnaire(s), Order(s) etc. from Assessing Officer to the concerned assessee's account in e-Filing website. On receipt of Departmental communication, assessee would be able to submit the response along with attachments by uploading the same, on e-Filing portal. The response submitted by the assessee would be viewed by the Assessing Officer electronically in Income Tax Business Application (ITBA) module. This would, besides saving precious time of the taxpayer, would also provide a 24X7 anytime/anywhere convenience to submit response to the Departmental queries in course of assessment proceedings. The taxpayers, who are not yet having an account on the e-Filing website of the Income-tax Department, are requested to get registered by following simple instructions in the e-Filing website (www.incometaxindiaefiling.gov.in).
 - Assessee would retain complete information of all e-submissions made during the course of assessment proceedings through 'E-Proceeding' facility for reference & record purpose in his e-Filing portal account.
 - Hearing/submission of document(s) may be conducted manually, if required, in following situation(s):
 - I. where manual books of accounts or original documents have to be examined;
 - II. where Assessing Officer invokes provisions of section 131 of Income-tax Act, 1961;
 - III. where examination of witness is required to be made by the concerned assessee or the Department;
 - IV. where a show-cause notice contemplating any adverse view is issued and assessee requests for personal hearing to explain the matter;
 - This initiative is environment friendly as assessment proceedings would become paperless.
-