

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'E' BENCH,  
NEW DELHI

BEFORE SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER, AND  
SHRI NAVEEN CHANDRA, ACCOUNTANT MEMBER

ITA No. 5668/DEL/2024 [A.Y. 2012-13]  
ITA No. 5669/DEL/2024 [A.Y. 2013-14]  
ITA No. 5670/DEL/2024 [A.Y. 2014-15]  
ITA No. 5671/DEL/2024 [A.Y. 2015-16]  
ITA No. 5672/DEL/2024 [A.Y. 2016-17]

Smt. Lalita Agarwal  
Flat No. 70, Pocket-B,  
SFS Flats, Sukhdev Vihar  
New Delhi

Vs.

The Income tax Officer  
Ward - 69(3)  
New Delhi

PAN - ABZPA 9184 B

ITA No. 5769/DEL/2024 [A.Y. 2014-15]  
ITA No. 5770/DEL/2024 [A.Y. 2015-16]

The Income tax Officer  
Ward - 69(3)  
New Delhi

Vs.

Lalita Agarwal  
Flat No. 70, Pocket-B,  
SFS Flats, Sukhdev Vihar  
New Delhi

(Applicant)

PAN - ABZPA 9184 B

(Respondent)

Assessee By : Shri Piyush Kaushik, Adv  
Shri Saurav Tandon, Adv  
Department By : Shri Ankush Kalra, SR.DR

Date of Hearing : 19.12.2025  
Date of Pronouncement : 15.01.2026

## ORDER

### PER BENCH:-

This is a bunch of six appeals - four by the assessee and two by the Revenue, directed against the order of the NFAC, Delhi dated 15.10.2024 for A.Ys 2012-13 to 2016-17 by the assessee and A.Ys 2014-15 and 2015-16 by the Revenue respectively.

2. Since underlying facts pertain to same assessee and identical issues are involved in the captioned appeals, they were heard together and are disposed of by this common order for the sake of convenience and brevity.

3. Representatives of both the sides were heard at length. Case records carefully perused. Relevant documentary evidence brought on record duly considered in light of Rule 18(6) of the ITAT Rules.

4. At the very outset, the ld. counsel for the assessee pointed out to the application filed u/r 11 of the ITAT Rules and prayed for admitting the additional legal ground.

5. Though the assessee and the Revenue have raised several grounds of appeal in all its appeals, but the challenge is to the service of notice u/s 143(2) of the Income-tax Act, 1961 [the Act, for short] for assumption of

jurisdiction to frame order u/s 147 of the Act. The same being is legal in nature and goes to the root of the matter, therefore, we decided to adjudicate the same first.

6. The additional ground raised by the assessee reads as under:

**"That without prejudice to any of the other grounds as per the appeal memo, the Assessment Order's as framed u/s 147/144 for AY 2012-13 to AY 2016-17 are bad in law as void ab initio and the same only deserves to be quashed forthwith in the absence of issuance of notice u/s 143(2) for AY 2012-13 to AY 2016-17 as per the stipulated mandatory format in accordance with CBDT Instruction F No.225/157/2017/ITA.II dated 23/06/2017, that this additional ground being squarely covered in assessee's favor by recent decision of Co-ordinate Bench of Delhi ITAT in the case of Anita Garg Vs ITO in ITA No. 4053/Del/24 dated 30/07/25 & other decisions on the subject on absolutely identical facts".**

7. In support of the application for raising the additional ground, the ld. counsel for the assessee submitted that the assessee vide its existing ground Nos. 1 to 4 for A.Y 2012-13 and Ground Nos. 1 to 3 for A.Ys 2013-14 to 2016-17 is challenging the assumption of jurisdiction u/s 147 on part of the Assessing Officer in the absence of service of mandatory notice u/s 143(2) of the Act within the stipulated time frame rendering the

assessment orders for A.Ys 2012-13 to 2016-17 as void ab initio being liable to be quashed forthwith.

8. It is the say of the ld. counsel for the assessee that the assessee was provided with copies of notices u/s 143(2) for A.Ys 2012-13 to 2016-17 only after framing of assessment orders of respective years pursuant to the order under Right to Information Act 2005 dated 10.01.2020 issued by the Assessing Officer which is placed at pages 36-37 of the Paper Book and copy of Application under RTI Act 2005 dated 06.01.2020 is placed at pages 31-35 of the Paper Books submitted by the assessee with the Assessing Officer.

9. In this regard it was submitted that even the notices u/s 143(2) of the Act as alleged and claimed to have been issued by the Assessing Officer for A.Ys 2012-13 to 2016-17, copy of which are placed at pages 40 to 43 of the Paper Book are not in accordance with the mandatory format stipulated vide CBDT Instruction F.No.225/157/2017/ITA.II dated 23.06.2017, placed at pages 1 to 5 of Paper Book for issuance of notice u/s 143(2) of the Act.

10. The ld. counsel for the assessee further submitted that the aforesaid additional ground is a pure legal ground going to the root of the matter and complete facts pertaining to the aforesaid ground are already on record

and no fresh determination of facts is required with respect to the aforesaid additional legal ground.

11. The ld. counsel for the assessee vehemently relied on the judgment of Hon'ble Supreme Court in the case of ***National Thermal Power Co. Ltd Vs CIT*** 229 ITR 383 (SC), Hon'ble Delhi High Court in the case of ***Orissa Cement Ltd. Vs CIT*** (2001) 250 ITR 856 (Del) and ***Gedore Tools Pvt Ltd. Vs CIT*** (1999) 238 ITR 268 (Del) wherein it has been held that where it is only required to consider the question of law arising from the facts which are on record, there is no reason why such a question should not be allowed to be raised when it is necessary to consider that question in order to correctly assess the tax liability of an assessee.

12. The ld. counsel for the assessee further contended that after the issuance of notice u/s 148 of the Act for A.Y 2012-13 dated 31.03.2019, no notice u/s 143(2) of the Act was issued and served on the assessee. The ld. counsel for the assessee referred to the e-proceedings time line as available at ITBA Portal, copy of which is placed at pages 22 to 26 of the PB and for A.Ys 2012-13 to 2016-17. It is the say of the ld. counsel for the assessee that the ITBA Portal for the said A.Ys refers to issuance of notice

u/s 148 of the Act and issuance of notices u/s 142(1) on various dates. But there is no reference of issuance of notice u/s 143(2) which is mandatory for carrying out the proceedings of section 148 of the Act. In the absence of notice u/s 143(2) of the Act, the entire proceedings is vitiated and becomes null and void.

13. Per contra, the ld. DR vehemently submitted that notice u/s 143(2) of the Act was issued for A.Ys 2013-14 to 2016-17 and pages 40 to 46 of the Paper Books clearly shows that notice u/s 143(2) of the Act dated 7.11.2019 was issued. Therefore, the ld. counsel for the assessee concluded that the notice u/s 143(2) of the Act was duly issued and served upon the assessee.

14. In rejoinder, the ld. counsel for the assessee referred to the CBDT Circular 19/2019 dated 14.08.2019 to submit that the department was required to communicate with the assessee with Documentation Identification Number [DIN] duly quoted in the body of such communication. It is submitted that the AO has not recorded reasons in writing in the file nor has taken prior written approval of the Chief Commissioner/Director General of income- tax for issuance of notice u/s 143(2).

15. We have heard the rival submissions and have perused the relevant material on record. We find that the Revenue has provided copies of manual notice u/s 143(2) issued on 07.11.2019 for the A.Ys 2012-13 to 2016-17 in response to RTI query u/s 7 of the Right to Information Act that notice u/s 143(2) of the Act was indeed. It is however to be determined whether the same was validly issued.

16. A perusal of the time line in the ITBA Portal shows that though the portal depicts the issuance of notice u/s 148 and various other notices u/s 142(1), there is no reference to the issuance of notice u/s 143(2) of the Act in the time line. In such facts, we now examine the validity of manually issued notice u/s 143(2). The validity is to be determined with reference to Circular 19/2019 issued by CBDT dated 14.08.2019 which is reproduced below:

*Circular No. 19 /2019 New Delhi, dated the 14 of August, 2019*

*Subject: Generation/Allotment/Quoting of Document Identification Number in Notice/Order/Summons/letter/correspondence issued by the Income-tax Department reg.*

*With the launch of various e-governance initiatives, Income-tax Department is moving toward total computerization of its work. This has led to a significant improvement in delivery of services and has also brought greater transparency in the functioning of the tax administration. Presently, almost all notices and orders are being generated electronically on the Income Tax Business Application (ITBA) platform. However, it has been brought to the notice of the Central Board of Direct Taxes (the Board) that there have been some instances in which the notice, order,*

*summons, letter and any correspondence (hereinafter referred to as "communication") were found to have been issued manually, without maintaining a proper audit trail of such communication.*

*2. In order to prevent such instances and to maintain proper audit trail of all communication, the Board in exercise of power under section 119 of the Income-tax Act, 1961 (hereinafter referred to as "the Act"), has decided that no communication shall be issued by any incometax authority relating to assessment, appeals, orders, statutory or otherwise, exemptions, enquiry, investigation, verification of information, penalty, prosecution, rectification, approval etc. to the assessee or any other person, on or after the 1st day of October, 2019 unless a computer-generated Document Identification Number (DIN) has been allotted and is duly quoted in the body of such communication.*

*3. In exceptional circumstances such as,*

*(i) when there are technical difficulties in generating/allotting/quoting the DIN and issuance of communication electronically; or*

*(ii) when communication regarding enquiry, verification etc. is required to be issued by an income-tax authority, who is outside the office, for discharging his official duties: or*

*(iii) when due to delay in PAN migration, PAN is lying with non-jurisdictional Assessing Officer; or*

*(iv) when PAN of assessee is not available and where a proceeding under the Act (other than verification under section 131 or section 133 of the Act) is sought to be initiated; or*

*(v) When the functionality to issue communication is not available in the system, the communication may be issued manually but only after recording reasons in writing in the file and with prior written approval of the Chief Commissioner / Director General of incometax. In cases where manual communication is required to be issued due to delay in PAN migration, the proposal seeking approval for issuance of manual communication shall include the reason for delay in PAN migration. The communication issued under aforesaid circumstances shall state the fact that the communication is issued manually without a DIN and the date of obtaining of the written approval of the Chief Commissioner/Director General of Income-Tax for issue of manual communication in the following format- ".. This communication issues manually without a DIN on account of reason/reasons given in para 3(i)/3(ii)/3(iii)/3(iv)/3(v) of the CBDT Circular No ...dated... (strike off those which are not applicable) and with the approval of the Chief Commissioner / Director General of Income Tax vide number .... dated ...."*

4. Any communication which is not in conformity with Para-2 and Para-3 above, shall be treated as invalid and shall be deemed to have never been issued.
5. The communication issued manually in the three situations specified in para 3-(i), (ii) or (iii) above shall have to be regularised within 15 working days of its issuance, by –
  - i. uploading the manual communication on the System.
  - ii. compulsorily generating the DIN on the System;
  - iii. communicating the DIN so generated to the assessee/any other person as per electronically generated pro-forma available on the System.
6. An intimation of issuance of manual communication for the reasons mentioned in para 3(v) shall be sent to the Principal Director General of Income-tax (Systems) within seven days from the date of its issuance.
7. Further, in all pending assessment proceedings, where notices were issued manually, prior to issuance of this Circular, the income-tax authorities shall identify such cases and shall upload the notices in these cases on the Systems by 31st October, 2019.
8. Hindi version to follow.

17. We find that vide CBDT Circular [supra], it had become mandatory from 01.10.2019 to issue any communication with computer generated DIN and when due to technical difficulties, DIN is not issued, communication could be issued manually only after recording reasons in writing with prior written approval of the Chief Commissioner/Director General of income-tax. In the course of appeal proceedings before us, we afforded several opportunities to the Revenue to show us that there existed reasons recorded for issuing the notices u/s 143(2) of the Act manually along with prior approval of CCIT/DGIT. The Revenue however, could not show that

the manual issuance of notices u/s 143(2) of the Act has been regularized by recording reasons after taking written approval of the Chief Commissioner/Director General of income- tax.

18. Accordingly, in accordance with the said Circular itself at para 4, notice u/s 143(2) of the Act for the A.Ys under consideration is considered as invalid and deemed to have never been issued. We are, therefore, of the considered opinion that assumption of jurisdiction u/s 148 of the Act for reassessment proceedings are vitiated in the absence of valid notice u/s 143(2) and is quashed as void ab initio. Additional ground is allowed.

19. Challenge to the service of notice u/s 148 of the Act and assumption of jurisdiction has been held to be bad in law. Therefore, we do not find any reason to dwell into the merits of the case as well as challenge to the format of notice u/s 143(2) stipulated vide CBDT Instruction F.No.225/157/2017/ITA.II dated 23.06.2017.

20. To sum up, in the result, Appeals of the Assessee in ITA Nos. 5668, 5669, 5670, 5671 and 5672/DEL/2024 are allowed whereas the appeals of the Revenue in ITA Nos. 5769 and 5770/DEL/2024 are dismissed.

The order is pronounced in the open court on 15.01.2026.

Sd/-

[CHALLA NAGENDRA PRASAD]  
JUDICIAL MEMBER

Sd/-

[NAVEEN CHANDRA]  
ACCOUNTANT MEMBER

Dated: 15<sup>th</sup> January 2026

VL/

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,  
ITAT, New Delhi

Sl No.	PARTICULARS	DATES
1.	<i>Date of dictation of Tribunal Order</i>	
2.	<i>Date on which the typed draft order is placed before the Dictating Member</i>	
3.	<i>Date on which the typed draft order is placed before the other Member [in case of DB]</i>	
4.	<i>Date on which the approved draft order comes to the Sr. P.S./P.S.</i>	
5.	<i>Date on which the fair Order is placed before the Dictating Member for sign</i>	
6.	<i>Date on which the fair order is placed before the other Member for sign [in case of DB]</i>	
7.	<i>Date on which the Order comes back to the Sr. P.S./P.S for uploading on ITAT website</i>	
8.	<i>Date of uploading, inf not, reason for not uploading</i>	
9.	<i>Date on which the file goes to the Bench Clerk</i>	
10.	<i>Date on which the file goes for Xerox</i>	
11.	<i>Date on which the file goes for endorsement</i>	
12.	<i>The date on which the file goes to the Superintendent for checking</i>	
13.	<i>Date on which the file goes to the Assistant Registrar for signature on the order</i>	
14.	<i>Date on which the file goes to the dispatch section for dispatch the Tribunal order</i>	
15.	<i>Date of Dispatch of the Order</i>	
16.	<i>Date on which the file goes to the Record Room after dispatch the order</i>	