

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

**BEFORE SHRI ANUBHAV SHARMA, JUDICIAL MEMBER
AND
SHRI SANJAY AWASTHI, ACCOUNTANT MEMBER**

**ITA No.1736/DEL/2026
Assessment Year: 2015-16**

SATYA PRAKASH, 20, Sarang Pur Village, New Delhi, Delhi 110073. PAN No. EIQPS7988F	Vs.	INCOME TAX OFFICER, Income Tax Office, Ward 43(1), C.R. Building, I.P. Estate, Delhi 110002.
Appellant		Respondent

Assessee by	Smt. Rano Jain, Adv. & Ms. Mansi Jain, Adv. Shri Tanishq Ahuja, Adv.
Revenue by	Shri Balkrishan Gopal, Sr. DR

Date of hearing:	06.07.2026
Pronouncement on	02.09.2026

ORDER

PER SANJAY AWASTHI, ACCOUNTANT MEMBER:

1. This appeal arises from order dated 18.12.2025, passed u/s 250 of the Income Tax Act, 1961 (hereafter as "the Act"), by NFAC.

1.1 In this case, the Ld. AO, vide order dated 24.03.2024, has passed an order u/s 147 r.w.s. 144B of the Act. It is seen that through this order an amount of Rs.53,50,000/- has been added u/s 69A of the Act. This addition was made on account of cash deposits in the bank account which were allegedly unexplained.

1.2 The aggrieved assessee approached the CIT(A) where he challenged the assumption of jurisdiction on two counts as under: -

- i) that the notice u/s 148 issued on 02.04.2022 was barred by limitation; and
- ii) no notice u/s 143(2) of the Act was issued in spite of the fact that the assessee had filed a return of income on 30.04.2022, in response to notice u/s 148 of the Act.

The assessee has also challenged the addition on merits. However, the Ld. CIT(A) dismissed the appeal after a discussion in the body of the impugned order.

1.3 The aggrieved assessee has approached the ITAT with grounds challenging the assumption of jurisdiction again on the two counts mentioned in para 1.2 (supra) and has also challenged the treatment of deposits in bank as unexplained.

2. Before us the Ld. AR argued with the help of a paper book and stated that the notice u/s 148 was issued on account of an alleged unexplained deposit of Rs.53,50,000/-. The AO took us through the facts of the case and pointed out that the notice u/s 148 was issued on 02.04.2022 whereas as per the extant provisions valid for the assessment year under consideration, the notice could have been issued only upto 31.03.2022. The Ld. AR argued at length and stated that as per the first proviso to Section 149 of the Act this notice could not have been issued beyond 31.03.2022. The Ld. AR relied on several authorities to canvass this point. Secondly, the Ld. AR argued on the point that no notice u/s

143(2) of the Act was issued in spite of the fact that a return of income was duly filed on 30.04.2022 in compliance to notice u/s 148 of the Act. For this purpose, the Ld. AR argued that this was a fatal defect and the contention of the AO that the return filed in response to notice u/s 148 of the Act was not e-verified and hence deserved to be treated as invalid, was misplaced since the assessee had done his duty and had filed the return of income as required by the Ld. AO. For this purpose, the Ld. AR read out para 1.3 at pages 1 to 2 of the Ld. AO. Regarding the merits of the case the Ld. AR pointed out that the only amount deposited in the bank was Rs.28,30,000/- and not Rs.53,50,000/-. It was the submission that the entire amount was justified and the authorities below had not considered the explanation and documents filed by the assessee.

2.1 The Ld. DR, on the other hand, stated that the notice u/s 148 of the Act was issued within time since the amount involved was more than 50,00,000/- and therefore it can be issued upto a period of ten years and not six years as was being argued by the Ld. AR. Regarding the issue of the absence of notice u/s 143(2) of the Act the Ld. DR stated that once the return of income had been treated to be invalid then the Ld. AO could only legally proceed u/s 144 of the Act, for which no notice u/s 143(2) of the Act was required. On merits, the Ld. DR stated that the assessee was trying to explain the deposits on the basis of affidavits and not on the basis of any factual material in his support.

3. We have considered the rival submissions and have gone through the orders of authorities below. It would be appropriate for considering the challenges to the assumption of jurisdiction in this case and for this purpose the fact that really stands out in this case is the absence of any notice u/s 143(2) of the Act, in spite of a return of income being filed on 30.04.2022. We find that the Ld. CIT(A) has dismissed this ground on the finding that the assessee participated in the proceedings and therefore any procedural requirement would stand satisfied on this basis alone. We find that it is more or less a settled position now that a notice u/s 143(2) of the Act has to be issued for any valid assumption of jurisdiction. There are a catena of judgments on this issue and we can do no better than to draw sustenance from the case of Shaily Juneja reported in 476 ITR 665 (Del.), order dated 27.08.2024. In this case, it has been emphatically asserted that the issuance of notice u/s 143(2) of the Act is not a mere procedural requirement but is essential for a valid assumption of jurisdiction. This case law also covers the issue of whether section 292BB of the Act could come to the rescue of the Ld. AO or not. The following excerpt from this case law would settle the issue in favour of the assessee: -

“9. In order to avoid a replication of the consistent view taken by the Court in this respect, we deem it to extract the following passage from a recent decision rendered by the Division Bench in Pr. CIT v. Grand deem it apposite Express Developers (P.) Ltd. [2024] 158 taxmann.com 24 (Delhi)/2023 SCC Online Del 7316:-

“20. The argument advanced on behalf of the appellant/revenue that the absence of notice under Section 143(2) would not render the

assessment order under Section 143(3) defective does not impress us as the import of Section 292BB is to remedy infirmities that arise in the service of notice under the Act. However, this is a case, where no notice under Section 143(2) was issued, as noted by the CIT(A) and affirmed by the Tribunal; which is different from saying that a notice was issued which was deficient. This issue is no longer res integra, as is demonstratable by the decision of the Supreme Court in Commissioner of Income-tax v. Laxman Das Khandelwal, [2019] 108 taxmann.com 183/266 Taxman 171/417 ITR 325 (SC). For convenience, the relevant reasoning made in this behalf is set forth hereafter:

"7. A closer look at Section 292BB shows that if the assessee has participated in the proceedings it shall be deemed that any notice which is required to be served upon was duly served and the assessee would be precluded from taking any objections that the notice was (a) not served upon him; or (b) not served upon him in time; or (c) served upon him in an improper manner. According to Mr. Mahabir Singh, learned Senior Advocate, since the Respondent had participated in the proceedings, the provisions of Section 292BB would be a complete answer. On the other hand, Mr. Ankit Vijaywargia, learned Advocate, appearing for the Respondent submitted that the notice under Section 143(2) of the Act was never issued which was evident from the orders passed on record as well as the stand taken by the Appellant in the memo of appeal. It was further submitted that issuance of notice under Section 143(2) of the Act being prerequisite, in the absence of such notice, the entire proceedings would be invalid.

8. The law on the point as regards applicability of the requirement of notice under Section 143(2) of the Act is quite clear from the decision in Hotel Blue Moon's case (supra). The issue that however needs to be considered is the impact of Section 292BB of the Act.

9. According to Section 292BB of the Act, if the assessee had participated in the proceedings, by way of legal fiction, notice would be deemed to be valid even if there be infractions as detailed in said Section. The scope of the provision is to make service of notice having certain infirmities to be proper and valid if there was requisite participation on part of the assessee. It is, however, to be noted that the Section does not save complete absence of notice. For Section 292BB to apply, the notice must have emanated from the department. It is only the infirmities in the manner of service of notice that the Section seeks to cure. The Section is not intended to cure complete absence of notice itself.

10. Since the facts on record are clear that no notice under Section 143(2) of the Act was ever issued by the Department, the findings rendered by the High Court and the Tribunal and the conclusion arrived at were correct. We, therefore, see no reason to take a different view in the matter.

11. These Appeals are, therefore, dismissed. No costs."

It is felt that we need to address the issue of an allegedly invalid return of income also. We find that the assessee has duly complied with the direction issued by the AO to file a return of income, through a notice u/s 148 of the Act. The assessee cannot be held responsible in case the returned of income is not “e-verified”. Accordingly, it deserves to be held that due to the non-issuance of a notice u/s 143(2) of the Act the assumption of jurisdiction was legally invalid and therefore the subsequent proceedings are also invalid in the eyes of law. Since the assessee has succeeded on the legal ground, hence, none of the other grounds are adjudicated.

4. In the result, the appeal is allowed.

Order pronounced in the open court on 02.09.2026

Sd/-
(ANUBHAV SHARMA)
JUDICIAL MEMBER

Sd/-
(SANJAY AWASTHI)
ACCOUNTANT MEMBER

Dated: 02.09.2026

**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