

**IN THE INCOME TAX APPELLATE TRIBUNAL  
BANGALORE BENCHES "B", BANGALORE**

**Before Shri George George K, JM & Shri Laxmi Prasad Sahu, AM**

ITA No.16/Bang/2023 : Asst.Year 2013-2014

Rajiv Gandhi University of Health Sciences, RGUHS 4 <sup>th</sup> T Block, Jayanagar Bangalore – 560 041. <b>PAN : AAALF0023C.</b>	v.	The Assistant Commissioner of Income-tax (Exemptions) Circle – 1, Bangalore.
(Appellant)		(Respondent)

Appellant by : Smt.Suman Lunkar, CA  
Respondent by : Sri.Sunil Kumar Singh, CIT-DR

<b>Date of Hearing : 16.05.2023</b>	<b>Date of Pronouncement : 16.05.2023</b>
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**ORDER**

**Per George George K, JM :**

This appeal at the instance of the assessee is directed against CIT(A)'s order dated 11.11.2022 passed u/s 250 of the Income-tax Act, 1961 ("the Act" for short). The relevant assessment year is 2013-2014.

2. At the very outset, we notice that the assessee has raised grounds stating that the assessment completed is not valid, since the mandatory notice u/s 143(2) of the Act has not been duly served on the assessee. The ground pertaining to the above legal issue reads as follows:-

*"2.1 The learned CIT(A), NFAC, Delhi has erred in not adjudicating the Additional Ground of Appeal raised on the issue of non service of mandatory notice u/s 143(2) of the Act by the learned Jurisdictional Assessing Officer. The action of*

*the CIT(A), NFAC, Delhi being in gross violation of principles of natural justice, is to be negated.*

*2.2 The pre requisite / condition for assessment to be valid being service of the mandatory notice u/s 143(2) of the Act by the learned Jurisdictional Assessing Officer having not been complied with makes the impugned assessment order bad in law and the learned CIT(A), NFAC, Delhi should have set aside the assessment order on this ground alone. The impugned assessment order being bad in law, is to be quashed.”*

3. The Registrar of the assessee-society had filed an affidavit stating therein that the mandatory notice u/s 143(2) of the Act has never been served on the assessee and this fact was brought to the notice of the Assessing Officer during the course of assessment proceedings vide assessee's letter dated 15.03.2016. The learned AR submitted that since there is no service of notice u/s 143(2) of the Act, the impugned assessment order passed has to be quashed. In this context, the learned AR relied on the following judicial pronouncements:-

- (i) CIT v. Hotel Blue Moon 321 ITR 362 (SC)
- (ii) CIT v. Laxmandas Khandelwal 108 taxmann.com 183 (SC)
- (iii) Smt.Arwa Hararwala v. ITO in ITA No.01/Bang/20 (order dated 20.12.2021)

4. The learned Departmental Representative was asked to produce the assessment records, which the learned DR duly complied with.

5. We have heard rival submissions and perused the material on record. We have elaborately gone through the assessment records and the order sheet noting of the A.O. We have not found any noting for the issuance of notice u/s

143(2) of the Act. In the aforesaid facts and circumstances, we have to accept the assessee's contention that there is no service of mandatory notice u/s 143(2) of the Act, and therefore, the assessment order is to be set aside on this ground alone. In holding so, we rely on the judicial pronouncements relied on by the assessee. It is also a fact that the assessee has brought to the notice of the A.O. during the course of assessment proceedings that there was no service of notice u/s 143(2) of the Act. However, the A.O. has not addressed this issue in the assessment order. Further, before the CIT(A), the assessee has taken up the ground that there was no service of notice u/s 143(2) of the Act. However, there was no adjudication on the ground raised by the assessee. In the aforesaid facts and circumstances, we are constrained to set aside the assessment order, since there is no valid service of mandatory notice u/s 143(2) of the Act. Hence, the legal ground raised, namely, grounds 2.1 and 2.2 are allowed.

6. In the result, the appeal filed by the assessee is allowed.

Order pronounced on this 16<sup>th</sup> day of May, 2023.

**Sd/-**  
**(Laxmi Prasad Sahu)**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**(George George K)**  
**JUDICIAL MEMBER**

Bangalore; Dated : 16<sup>th</sup> May, 2023.  
Devadas G\*

Copy to :

1. The Appellant.
2. The Respondent.
3. The CIT(A)NFAC, Delhi.
4. The Pr.CIT, Bengaluru.
5. The DR, ITAT, Bengaluru.
6. Guard File.

Asst.Registrar/ITAT, Bangalore

