IN THE INCOME TAX APPELLATE TRIBUNAL,
(SPECIAL BENCH), BENGALURU

BEFORE JUSTICE (RETD.) C.V. BHADANG, PRESIDENT
SHRI GEORGE GEORGE K, VICE PRESIDENT
AND Ms. S. PADMAVATHY, ACCOUNTANT MEMBER

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<tr><td colspan="3" align="center">ITA No.1413/BANG/2025
Assessment Year: 2017-18</td></tr>
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No.84, MD Towers, 2nd Main Road,
NT Pet, Bengaluru – 560 002.
PAN: AAUFM 9932B</td><td rowspan="2" align="center">Vs.</td><td align="center">The Income Tax Officer,
Circle-5(2)(1),
Bengaluru.</td></tr>
<tr><td align="center">(Appellant)</td><td align="center">(Respondent)</td></tr>
<tr><td align="right">Assessee represented by</td><td align="center">:</td><td>Mr. Padamchand Khincha, C.A</td></tr>
<tr><td align="right">Revenue represented by</td><td align="center">:</td><td>Mr. Raviraj R.V, Advocate,
Sr. Standing Counsel</td></tr>
<tr><td colspan="3" align="center"><u>INTERVENERS</u></td></tr>
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<tr><td align="center">The Asst. Commissioner of Income
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Belagavi.</td><td align="center">Vs.</td><td align="center">Bhimaji Maganlal Patel,
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Belagavi – 591 113.
PAN: AASPP 5432F</td></tr>
<tr><td align="center">(Appellant)</td><td></td><td align="center">(Respondent/Cross Objections)</td></tr>
<tr><td align="right">Assessee represented by</td><td align="center">:</td><td>Mr. Dharan Gandhi Omkar Godbale
&
Mr. Vipul Jain, Advocates</td></tr>
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Sr. Standing Counsel</td></tr>
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ITA No.1938/BANG/2025 **Assessment Year: 2017-18**		
Malledevaru Shaya Rajappa, No.1424, C/o Srinivasa S, KA Block, Subhasnagar, Singasandra, Begur Hobli, Bengaluru- 560 068. PAN: AQHPR 8580K	Vs.	The Income Tax officer, Ward-6(2)(1), Bengaluru.
(Appellant)		**(Respondent)**
Assessee represented by	:	Mr. Hemat Pai, Advocate
Revenue represented by	:	Mr. Raviraj R.V, Advocate, Sr. Standing Counsel
ITA No.5430/MUM/2025 **Assessment Year: 2017-18**		
Neo Iturkaa Enterprises, 002, Chanakya, Opp. T-Ward Office, Devidayal Road, Mulund West, Mumbai – 400 080. PAN: AAJFN 6629D	Vs.	The Asst. Commissioner of Income Tax, Circle-26(2), Mumbai.
(Appellant)		**(Respondent)**
Assessee represented by	:	Mr. Devendra Jain, Advocate
Revenue represented by:	:	Mr. Raviraj R.V, Advocate, Sr. Standing Counsel
ITA No.1144/BANG/2025 **Assessment Year: 2021-22**		
Arpit Patel, 40, Jamburdi Hapsi, Indore – 453 112, Madhya Pradesh.	Vs.	The Income Tax Officer, Ward-14, Indore.
(Appellant)		**(Respondent)**
Assessee represented by	:	Mr. Pavanved, Advocate
Revenue represented by	:	Mr. Raviraj R.V, Advocate, Sr. Standing Counsel

ITA No.1889/BANG/2025 Assessment Year: 2017-18		
Srinivasappa Harish, No.79, Gudlu Muddenahalli Village, Narayanapura Post, Devanahalli Taluk, Bengaluru – 562 110. PAN: AMVPH 0763L	Vs.	The Income Tax Officer, Ward-6(3)(4), Bengaluru.
(Appellant)		**(Respondent)**
Assessee represented by	:	Mr. Mahesh G.T, C.A
Revenue represented by	:	Mr. Raviraj R.V, Advocate, Sr. Standing Counsel

ITA No.63/BANG/2024 Assessment Year: 2017-18		
Jones Santana Vas, H.No.C-17/103, Bondiem Bhat, St. Paul Market Taleigao, Tiswadi – 403 002. PAN: ABXPV 0468K	Vs.	The Income Tax Officer, Ward-1(5), Panaji, Goa.
(Appellant)		**(Respondent)**
Assessee represented by	:	Mr. Sham Kamath, C.A
Revenue represented by	:	Mr. Raviraj R.V, Advocate, Sr. Standing Counsel

Date of conclusion of hearing:	15-04-2026
Date of pronouncement (virtual) :	13-07-2026

O R D E R

Per Padmavathy S, Accountant Member:

This special Bench was constituted by the Hon'ble President vide his order dated 10.11.2025 in the case of the assessee M D Sons due to conflicting decisions of various Co-ordinate Benches of the Tribunal. The question referred for adjudication to the Special Bench reads as follows:-

> *"Whether notices issued u/s 143(2) of the Income Tax Act, 1961 on or after 23rd June 2017 which are not in the prescribed format as per CBDT Instruction/F No.225/157/2017/ITA.II), despite the provisions of section 292B of the Income Tax Act, renders the consequent assessment orders invalid?".*

Brief facts necessary for the disposal of the above question are as follows:

2. The assessee is a partnership firm. It is engaged in the business of trading in cigarettes and food items. For the Assessment Year (A.Y) 2017-18, the return of income was filed on 04.11.2017 declaring a loss of Rs.2,30,72,700/-. The said return was processed u/s 143(1) of the Income Tax Act, 1961 (the Act).The case was selected for scrutiny through 'Computer Aided Selection Scrutiny'(CASS) and statutory notice u/s 143(2) of the Act was issued on 21.09.2018, and served on the assessee on e-mail address. Subsequently the Assessing Officer (AO) issued notice u/s 142(1) and show cause notices calling upon the assessee to furnish various details. The assessee furnished the details as called for from time to time. The AO completed the assessment on 28.12.2019 u/s 143(3) of the Act assessing the income of the assessee at Rs.3,48,75,050/-.

3. Aggrieved the assessee filed further appeal before the CIT(A) who gave partial relief to the assessee. The assessee preferred further appeal before the Tribunal against the order of the CIT(A). Before the Tribunal the assessee raised an additional ground that the notice issued u/s 143(2) is not in the format prescribed by the CBDT instruction dated 23.06.2017 issued in F No.225/157/2017ITA-II. Hence, it was contended that all the consequential proceedings are bad and liable to be quashed. The assessee relied on the following decisions of the various coordinate benches wherein such notices issued by the AO not in conformity with the CBDT communication are held to be invalid and the assessment orders were quashed –

Sl.No.	ITA No.	A.Y.	Date of order	Title
1.	1911/Kol/2024	2017-18	19.11.2024	Srimanta Kumar Shit Vs ACIT
2.	1660/Kol/2024	2017-18	11.03,2025	Tapas Kumar Das Vs ITO
3.	1244/Kol/2023	2017-18	26.03.2025	Sajal Biswas Vs ITO
4.	608 & 610/Kol/2024	2012-13 & 2017-18	06.05.2025	Hind Ceramics Pvt Ltd., Vs DCIT
5.	4053/Del/2024	2017-18	30.07.2025	Anita Garg Vs ITO
6.	2407/Del/2025	2017-18	26.09.2025	Allied Concepts India Pvt Ltd vs ITO

4. The assessee also submitted that there is a decision of the coordinate bench which is prior to all those decisions in case of Shri Veeranna Murthy Raghavendra Dikshit in ITA No.1072/Bang/2024 dated 19.08.2024 for AY 2017-18 taking a contrary view, wherein it is held that even if the notice issued is in different format, but in substance it satisfies the conditions, it shall be deemed to be a valid notice. It is submitted that the coordinate bench in the said decision has referred to the instructions of CBDT, provisions of section 282A, 292B and 292BB of the Act. Thus there is a conflict between the decisions of the coordinate benches where the notices that are issued on or after 23.06.2017 not in the format prescribed by the CBDT whether valid or not. Accordingly, the co-ordinate Bench at Bangalore by order dated 08.10.2025 made a reference was made to the Hon'ble President. The Hon’ble President vide order dated 10.11.2025 constituted the Special Bench to decide the question as extracted in the beginning of this order.

5. Submissions of assessee's Authorised Representative (AR)

The ld AR, presented elaborate submissions during the course of hearing and also submitted written submissions. The arguments and the written submissions made by the ld AR are summarised hereunder –

5.1 The tax administration has transitioned to a technology-driven scrutiny framework under Digital India, with Project Insight and Operation Clean Money initiatives using advanced data analytics and intelligence tools to promote transparency, reduce litigation, improve assessment quality, and enable non-intrusive, risk-based compliance verification.

5.2 CASS-based scrutiny selection relies on automated risk profiling using CPC-processed returns and multi-source data (AIR, CIB, 26AS, TDS, reporting entities, etc.), generating issue-specific case packets; CBDT observed misuse through unfocused enquiries and therefore directed officers to restrict verification to system-flagged issues (Instruction No.7/2014).

5.3 CBDT introduced Limited Scrutiny vs Complete Scrutiny controls to prevent fishing enquiries — Limited Scrutiny must remain confined to flagged issues, while expansion to Complete Scrutiny requires threshold escapement indicators and prior Pr.CIT/CIT approval, reinforced through multiple binding instructions from 2014–2019.

5.4 CBDT mandated standardized formats for section 143(2) notices (2016, revised in 2017) clearly specifying the type of scrutiny (Limited/Complete/Manual), directing that notices must be issued only in prescribed formats under section 119 of the Act, powers non-conforming notices are treated as contrary to binding instructions and legally vulnerable.

5.5 CBDT circulars and instructions issued under section 119 of the Act are binding on income-tax authorities, even where they relax or clarify statutory procedure — affirmed in UCO Bank v. CIT (SC) and UOI v. Azadi Bachao Andolan (2003) 263 ITR 706 (SC).

5.6 The 2017 Instructions prescribing mandatory formats for section 143(2) notices qualifies as a binding direction and not merely an internal advisory —

recognized in M/s Durga Automotives Pvt. Ltd. v DCIT (ITA No.675/Kol/2024) decided on 22.04.2025.

5.7 Multiple Tribunal decisions have held that non-format 143(2) notices are invalid and have quashed consequential assessments -including Srimanta Kumar Shit v ACIT (ITA No.1911/Kol/2024) decided on 19.11.2024, which the Department did not challenge.

5.8 Where the Revenue accepts a legal position in one case, it cannot ordinarily dispute the same in another without just cause — Berger Paints India Ltd v CIT (2004) 266 ITR 99 (SC).

5.9 It is a settled principle that where law or prescribed procedure requires an act to be done in a particular manner, it must be done only in that manner — Chandra Kishore Jha v Mahavir Prasad (1999) 8 SCC 266 (SC).

5.10 Administrative authorities are bound by the procedural standards they themselves lay down — Sukhdev Singh v Bhagatram (1975) 1 SCC 421 (SC).

5.11 Courts have repeatedly quashed proceedings for breach of CBDT instructions/manuals, even after introduction of section 292B of the Act. The rulings establish that breach of binding Board instructions vitiates proceedings, notwithstanding curative provisions like section 292B.

5.12 Section 292B cures only technical mistakes, defects or omissions in a notice, provided the notice is otherwise in substance and effect in conformity with the intent and purpose of the Act. It does not validate a notice that suffers from a jurisdictional defect.

5.13 The object behind insertion of section 292B by the Finance Act, 1975 was to prevent purely technical objections without substance from invalidating assessment proceedings, as clarified in CBDT Circular No.179 dated 30.09.1975.

5.14 The "intent and purpose of the Act" must be understood in the context of assessment proceedings, which form a core function under the Act (Chapter XIV). Therefore, statutory notices governing assumption of scrutiny jurisdiction must satisfy prescribed procedural requirements.

5.15 Under section 119(1) and 119(2), CBDT is empowered to issue binding circulars/instructions regarding assessment procedure. Pursuant to these powers, the Board issued the 2017 Instructions mandating that notices under section 143(2) must be issued only in the prescribed format. Such instructions are binding on income-tax authorities.

5.16 When the Board mandates a specific format for notice under section 143(2), compliance becomes a condition precedent for valid assumption of scrutiny jurisdiction. Hence, issuance of notice in correct format acquires a jurisdictional character.

5.17 Section 292B does not cure jurisdictional errors; it cures only mistakes in the exercise of jurisdiction. This principle is recognized in Smt. Mahesh Kumari Batra v. JCIT (2005) 95 ITD 152 (SB).

5.18 A defect that changes the scope or tenor of the notice or proceeding cannot be cured under section 292B. This principle is supported by CIT v. Spirit Global Construction (P.) Ltd (Delhi High Court), [SLP dismissed as reported in (2004) 300 Taxman 102 (SC)].

5.19 Non-mentioning of the type/scope of scrutiny in a 143(2) notice obscures the limits of enquiry and may enable arbitrary expansion of issues. Such omission causes prejudice to the assessee and therefore is not protected by section 292B of the Act.

5.20 Repeated CBDT communications, including Letter F.No. DGIT(VIG.) /HQ/SI/2017-18 dated 30.11.2017, warn of serious consequences for non-compliance with prescribed notice formats, reinforcing the mandatory and jurisdictional nature of the requirement.

5.21 Accordingly, a notice under section 143(2) issued not in conformity with the prescribed 2017 format is not in substance and effect according to the intent and purpose of the Act, and hence the defect is not curable u/s 292B.

5.22 In Sri Veeranna Murthy Raghavendra Deekshith (ITA No.1072/B/2024), the Tribunal held that a format defect in section 143(2) notice is curable under section 292B, treating it as a procedural irregularity and relying also on assessee's participation, which view is not correct.

5.23 The decision proceeds on the footing that effective communication of initiation of proceedings and assessee's participation remove prejudice. However, participation is relevant under section 292BB (service of notice) and not for curing a substantive invalid notice under section 292B. Participation cannot operate as an estoppel against law.

5.24 The decision is distinguishable as it does not examine the binding force of CBDT's 2017 Instruction, a series of Board directions, on notice format, or the jurisdictional consequences of non-compliance, and thus cannot govern cases, where scope of scrutiny itself is unclear from the notice.

5.25 The Revenue's reliance on an alleged revised format dated 31.07.2018 is untenable, as no such approval has been placed on record despite specific direction, and therefore an adverse inference ought to be drawn against the Revenue.

5.26 The assessee has placed on record copies of notices issued under section 143(2) to other assessees post 31.07.2018, which clearly follow the 2017 prescribed format and specifically mention "Limited Scrutiny (CASS)", thereby evidencing the actual practice followed by the Department.

5.27 The assessee submits that the above material directly contradicts the Revenue's contention regarding the existence of a revised format, inasmuch as notices issued subsequent to the alleged approval continue to follow the earlier prescribed format.

5.28 The assessee submits that the annexed notices are system-generated, and therefore the format is centrally controlled; consequently, the plea that the prescribed format was dispensed with is factually incorrect.

5.29 The assessee submits that where similarly placed assessees have been issued notices in the prescribed format, failure to follow the same in the present case results in discrimination and arbitrary exercise of power.

5.30 The assessee submits that such inconsistency causes real prejudice, as the absence of a proper format creates uncertainty regarding the scope of scrutiny and enables arbitrary expansion of enquiry.

5.31 The assessee submits that the Revenue's contention that no prejudice is caused is untenable, since deviation from the prescribed format, when followed in other cases, cannot be treated as a mere procedural irregularity.

5.32 The assessee therefore submits that the Revenue's defence based on an alleged revised format deserves to be rejected and the impugned notice, not being in conformity with the prescribed format, is liable to be held as bad in law and quashed.

6. Submissions of the Revenue's Counsel (DR)

6.1. The Revenue submits that the question of law does not arise in the present case, as the notice issued u/s 143(2) dated 21.09.2018 was in accordance with the format approved by the CBDT as on that date, including the revised format approved on 31.07.2018. It is contended that the formats were revised pursuant to CBDT Instruction dated 23.06.2017 and further modified for the CASS 2018 cycle, and the notice issued is in conformity with the format deployed in the ITBA system. Placing reliance on the CBDT clarification dated 16.01.2026, it is submitted that such formats are finalized by DGIT (Systems) in consultation with CBDT and, once deployed, cannot be altered by the Assessing Officer, who has no role in the matter.

6.2. It is further contended that CBDT Instruction F.No.225/157/2017/ITA-II dated 23.06.2017 is merely an internal administrative communication, not issued u/s 119 of the Act, and does not confer any enforceable right upon the assessee. The Revenue submits that no format for notice u/s 143(2) is prescribed under the Act or Rules and that the format is only a non-statutory form. It is thus argued that any deviation, if at all, cannot render the notice invalid. The notice issued is in substance and effect in conformity with the statutory requirements of section 143(2), namely initiation of scrutiny, assumption of jurisdiction, and grant of opportunity of hearing. The contention regarding absence of specification of “limited scrutiny” or “complete scrutiny” is also rejected as such expressions do not find place in the statute.

6.3. Without prejudice, it is submitted that any defect in the notice is purely procedural and does not vitiate the proceedings, being protected under section 292B of the Act, and section 292BB is also attracted as the assessee has participated in the proceedings without objection. It is emphasized that the assessee has fully participated in the assessment proceedings in response to notices issued u/s 143(2) and 142(1) and has failed to demonstrate any prejudice caused. A detailed chronology of events is also furnished to substantiate due compliance and participation.

6.4. The ld DR placed heavy reliance on the decision of the Hon'ble Delhi High Court in the case of Bharat Bansal v. NFAC (Delhi High Court), [W.P.(C)

2238/2026, CM APPL. 10798/2026 & CM APPL. 10799/2026 dated 17.02.2026] where it is held that –

"2. Learned counsel for the petitioner relied upon the circulars dated 23.06.2017 and 13.10.2021 and contended that if an assesse's case has been selected for scrutiny, the respondents are required to indicate in the notice that why his/her/its case has been taken up for scrutiny so also the fact that whether the scrutiny is limited or complete (circular dated 23.06.2017).

3. Learned counsel for the petitioner argued that since the impugned notice does not fulfil such requirements, the same is fundamentally barred in the eyes of law.

4. Ms. Monica Benjamin, learned Junior Standing Counsel for the respondent on the other hand argued that the circulars so issued nowhere provide that while issuing the notice under Section 143(2) of the Act of 1961, the reason for taking a case for scrutiny is to be given. She submitted that maybe the first notice dated 24.06.2025 was a general notice but thereafter, a specific notice dated 24.09.2025 under Section 142(1) of the Act of 1961 was issued whereby relevant information so also documents were demanded.

5. Having heard learned counsel for the parties and upon consideration of the material available on record, including the circulars that were relied upon by the learned counsel for the petitioner, we are of the firm opinion that it is not necessary for the Assessing Officer (AO) to indicate as to why an assesse's case has been selected for scrutiny.

6. The scrutiny assessment has been provided in order to address the rigmarole and harassment being faced by the assessee in general and to confine the detailed assessment proceedings to a limited number of assessee.

7. The circulars issued by the CBDT and the Department are only with a view to determine as to which case or category of cases shall be taken up for scrutiny assessment and what shall be the nature of the scrutiny, which in our opinion is totally an inter-Departmental matter.

8. No assessee can as a matter of right ask as to why his case has been taken up for scrutiny. Even before the Court, an assessee cannot make such prayer, unless he is able to demonstrate that there is arbitrariness or vendetta, behind taking up his case for scrutiny.

9. According to us, the first notice under Section 143(2) of the Act of 1961 is only an intimation to the assessee that his/her case has been selected for scrutiny assessment and during the course of assessment proceedings, the AO is definitely required to issue a specific notice eliciting the necessary information and documents. In the instant case, the AO has exactly done what is expected of him.

10. For the reasons aforesaid, the writ petition is hereby dismissed."

6.5. Reliance is also placed on the following decisions to contend that procedural defects do not invalidate proceedings in the absence of prejudice –

i. UNITAC Energy Solutions India Pvt. Ltd. v. ACIT WP(C) No. 1702 of 2017 (K)
ii. Rani Kusum v. Kanchan Devi (2005) 6 SCC 705 (Supreme Court),
iii. CIT v. Jagat Novel Exhibitors Pvt. Ltd. 356 ITR 559 (Delhi),
iv. CIT v. Sudev Industries Ltd. 405 ITR 325 (Delhi),
v. Shirish Madhukar Dalvi v. ACIT 287 ITR 242 (Bom),

6.6. It is submitted that procedural law is a handmaid of justice and technical defects, in the absence of prejudice, cannot invalidate the proceedings. In view of the above, it is prayed that the notice issued u/s 143(2) and the consequent assessment be held to be valid.

7. Submissions of the intervener – Bhimaji Maganlal Patel in ITA No.86/PAN/2024

The written submissions of the intervener are summarised hereunder –

7.1 Nature of Defect in the Impugned Notice u/s 143(2)

The Intervenor submits that the defect in the notice issued under Section 143(2) is undisputed and goes to the root of the matter. The notice merely mentioned that the case was selected for "Scrutiny (CASS)" but failed to specify whether the scrutiny was Limited Scrutiny, Complete Scrutiny, or Compulsory Manual Scrutiny. As per CBDT Instruction dated 23.06.2017, notices under section 143(2) are required to be issued only in prescribed formats clearly indicating the category of scrutiny. The omission to mention the nature and scope of scrutiny renders the notice non-compliant with the mandatory format. Therefore, the controversy is not about existence of a minor defect, but whether such a format violation strikes at jurisdiction and is incurable.

7.2 Notice u/s 143(2) — Jurisdictional Requirement

It is submitted that issuance of a valid notice under section 143(2) is a mandatory jurisdictional precondition for framing an assessment under section 143(3). The Assessing Officer derives authority to proceed with scrutiny assessment only upon issuing and serving a legally valid notice within the prescribed time. The Supreme Court has consistently held that absence or invalidity of such notice is not a procedural irregularity but a jurisdictional defect. Reliance is placed on decisions such as *Hotel Blue Moon* reported in (2010) 321 ITR 362 (SC) and *Laxman Das Khandelwal* in (2019) 417 ITR 325 (SC) wherein it has been held that failure to issue a valid notice u/s 143(2) vitiates the entire assessment. Thus, the foundation of jurisdiction being defective, the superstructure of assessment cannot survive.

7.3 Mandatory Character of CBDT Instruction Prescribing Format

The Intervenor emphasizes that the CBDT Instruction dated 23.06.2017, issued under section 119, mandatorily prescribes revised formats for notices under section 143(2). The instruction was introduced to ensure transparency, clarity, and proper communication of the scope of scrutiny in the era of e-proceedings. The language of the instruction uses the expressions “shall” and “only”, thereby leaving no discretion with the field authorities. According to the submission, once the Board has mandated a specific format, any notice issued outside that format is contrary to binding administrative law. The prescribed format is therefore not directory but compulsory, and deviation renders the notice legally unsustainable.

7.4 Importance of Specifying Type of Scrutiny

It is further submitted that specification of the type of scrutiny is not a mere procedural detail but has substantive jurisdictional consequences. In cases of Limited Scrutiny, the Assessing Officer’s enquiry is confined strictly to identified issues and cannot be expanded without higher approval. Complete Scrutiny and Manual Scrutiny, on the other hand, carry wider jurisdictional amplitude. Therefore, informing the assessee of the scrutiny category at the threshold is essential to define both the scope of enquiry and the assessee’s rights. Failure to specify the scrutiny type creates uncertainty and defeats the very purpose of the CBDT instructions. Reliance is placed on decisions such as *Weilburger Coatings (Calcutta High Court)*reported in 463 ITR 89 (Cal)(HC) to show that breach of scrutiny-scope limitations renders additions without jurisdiction.

7.5 Jurisdictional Defects Not Curable u/s 292B / 292BB

The Intervenor contends that the Revenue cannot invoke sections 292B or 292BB to cure the present defect, as these provisions apply only to minor procedural mistakes and not to foundational jurisdictional errors. Section 292B saves notices only where they are in substance and effect in conformity with the Act. A notice issued in violation of a binding CBDT format, instruction, meant to define jurisdictional scope, cannot be said to be in substance compliant. Reliance is placed on *Maruti Suzuki (SC)*, reported in (2019) 416 ITR 613 (SC),where the Supreme Court held that substantive illegality cannot be cured through section 292B. Hence, a notice defective at the jurisdictional threshold cannot be validated by saving clauses.

7.6 Judicial Instances Where Foundational Notice Defect Held Fatal

The submissions draw support from several judicial precedents where courts have treated defects in foundational notices as fatal to jurisdiction. These include cases where notices were issued to non-existent entities, deceased persons, beyond limitation, or without mandatory DIN numbers. In all such situations, courts have held that jurisdiction was never validly assumed and that the resulting assessments were nullities. The consistent principle emerging from these rulings is that strict compliance with jurisdictional conditions is mandatory, and failure at the threshold cannot be regularized later.

7.7 High Court Rulings on Invalid 143(2) Notices — Illustrative Situations

A series of High Court decisions are cited where notices under section 143(2) were quashed due to serious defects. These include notices found to be vague, omnibus, issued without application of mind, containing incorrect particulars, fixing compliance on public holidays, using generic printed formats without striking inapplicable portions, or served on incorrect persons or entities. Courts have also invalidated notices issued mechanically or simultaneously with return filing without examination. The consistent judicial approach is that such defects demonstrate non-application of mind and breach of statutory requirement. It is emphasized that in such cases, courts have rejected the Revenue's plea that no prejudice was caused, holding that prejudice is irrelevant where jurisdiction itself is absent.

7.8 Invalid Notice Cannot Confer Jurisdiction

The Intervenor submits that since a notice under section 143(2) is the very instrument through which the Assessing Officer assumes jurisdiction, an invalid notice cannot confer lawful authority. Jurisdiction must exist at inception and cannot be created by subsequent participation or conduct of the assessee. If the initiating notice is void in law, all subsequent proceedings automatically fall. Therefore, even a detailed assessment on merits cannot cure the initial lack of jurisdiction, and the resulting order is a nullity in the eyes of law.

7.9 Analogy from Penalty Notice Jurisprudence (Section 274)

An analogy is drawn from the settled jurisprudence on penalty notices under section 274, where courts have held that failure to strike off irrelevant portions in a show cause notice renders the notice vague and invalid. Decisions such as *CIT -vs.- Manjunatha Cotton & Ginning Factory* reported in*(2013) 359 ITR 565*(Karnataka HC) and the Full Bench decision in *Mohd. Farhan A.Shaikh*vs. CIT reported in (2021) 434 ITR 1 (Bomb)(HC) hold that an omnibus notice reflects non-application of mind and vitiates penalty proceedings. The Intervenor submits that if such strict standards apply even to penalty show-cause notices, a higher standard must necessarily apply to a jurisdictional notice under section 143(2), which forms the foundation of assessment proceedings. Therefore, non-compliance with mandated notice format should equally result in invalidation.

8. Submissions of the intervener – Arpit Patel (ITA No.1144/Ind/2025)

The summary of the submissions of the above intervener is as under –

8.1 It is submitted that CBDT, in exercise of statutory powers under section 119, issued Instructions dated 23.06.2017, prescribing three exclusive formats for section 143(2) notices — Limited Scrutiny (CASS), Complete Scrutiny (CASS), and Compulsory Manual Scrutiny. The Instruction mandates that notices shall be issued only in these formats to ensure transparency, taxpayer awareness, and controlled exercise of scrutiny powers in the e-assessment regime. The object is to communicate the exact scope of inquiry at inception and to prevent arbitrary expansion of scrutiny. Non-use of the prescribed format is therefore not a cosmetic lapse but a breach of a binding administrative control mechanism.

8.2 The submissions rely on settled law that circulars and instructions issued under section 119 are binding on departmental authorities and cannot be disregarded by field officers. Such circulars are issued for uniform, fair, and disciplined tax administration and may relax rigour of the statute in favour of taxpayers. Authorities cannot argue contrary to binding circulars nor selectively ignore them. Therefore, a notice issued contrary to the 2017 Instructions is without authority of law and jurisdictionally defective.

8.3 It is emphasized that issuance of a valid notice under section 143(2) is a condition precedent to assumption of scrutiny jurisdiction. The Supreme Court has held that absence or invalidity of such notice renders the entire assessment void. The argument proceeds that when the statute read with binding CBDT instructions regulates the manner and content of the notice, compliance with that format becomes part of jurisdictional validity. A notice that does not disclose the scrutiny category fails to meet this jurisdictional threshold.

8.4 The submissions stress that disclosure of scrutiny type is not procedural but affects substantive rights. In Limited Scrutiny cases, the AO is confined to flagged issues and cannot travel beyond them without prescribed approvals and recorded reasons. By not mentioning the scrutiny scope in the notice, the AO effectively withholds from the assessee knowledge of the jurisdictional limits and keeps open the possibility of roving inquiries. This defeats the safeguards built into the CASS regime and violates the taxpayer’s right to certainty regarding the scope of examination.

8.5 It is submitted that CBDT instructions strictly regulate conversion of Limited Scrutiny into Complete Scrutiny, requiring credible material, threshold escapement, and prior approval of PCIT/CIT. Non-specification of scrutiny type in the notice allows unauthorized expansion of enquiry and defeats these safeguards. Instructions of CBDT are cited to show that unauthorized expansion of limited scrutiny has been treated as serious misconduct, reinforcing that disclosure of scope in the notice is integral to lawful jurisdictional exercise.

8.6 Recent Tribunal decisions across benches are cited where assessments were annulled for failure to comply with the 23.06.2017 Instruction and for not specifying scrutiny scope in section 143(2) notice. It is pointed out that in some high tax effect matters, revenue has not pursued further appeals, which indicates departmental acceptance of the legal position. Consistency principles are invoked to submit that the department cannot accept the position in some cases and contest it in others on identical facts.

8.7 It is submitted that sections 292B and 292BB cure only technical or procedural defects and cannot validate an inherently void jurisdictional notice. Courts have held that where jurisdiction itself is defective, saving provisions do not apply. Since the defect here affects the very scope and authority of scrutiny, it is characterized as jurisdictional and not curable. Allowing section 292B to override a binding CBDT Instruction would render such instructions meaningless and produce absurd results.

8.8 Reliance is placed on penalty notice jurisprudence where courts have invalidated notices that fail to specify the exact charge (concealment vs inaccurate particulars). The principle drawn is that vagueness and non-application of mind in a statutory notice vitiate proceedings. It is argued that if such strict compliance is insisted upon penalty show-cause notices, a higher standard must apply to jurisdictional scrutiny notices — especially where CBDT has prescribed a specific format.

8.9 An additional constitutional plank is raised that non-disclosure of scrutiny scope enables unguided and arbitrary exercise of power, offending Article 14 of the Constitution of India. Jurisdictional discretion must be structured and transparent, not open-ended or concealed. It is submitted that arbitrariness is antithetical to equality and rule of law. A notice that suppresses the scope of scrutiny, is arbitrary and unconstitutional, even independent of the CBDT circular.

9. Assessee's & interveners' rebuttal to the reliance placed by the revenue on the decision of the Hon'ble Delhi High Court in the case of Bharat Bansal (supra)

9.1 The reliance on the Delhi High Court ruling is misplaced, as the said decision pertains to a materially different factual matrix. The case before the High Court concerned AY 2025, where admittedly a uniform format of notice under section 143(2) was in use without distinction between limited and complete scrutiny. In contrast, the present case relates to AY 2017–18, where the CBDT had mandated distinct formats for different categories of scrutiny. Accordingly, the decision is factually distinguishable.

9.2 The High Court proceeded on the premise that the assessee was seeking disclosure of "reasons for selection". With respect, the present challenge is fundamentally different. The grievance is not about reasons, but about non-compliance with the mandatory format prescribed by the CBDT, which goes to the validity of the jurisdictional notice itself.

9.3 The High Court's observation that it is not necessary to indicate why a case was selected does not address the issue in the present case. Even if reasons for selection need not be disclosed, it does not follow that the Assessing Officer can omit specifying the nature of scrutiny, when the CBDT has expressly mandated such disclosure through prescribed formats.

9.4 The CBDT, in exercise of statutory powers under section 119, has directed that notices under section 143(2) "shall" be issued only in specified formats**.** Such instructions are binding on the Department. Non-adherence is not a mere procedural irregularity but a jurisdictional defect vitiating the entire assessment.

9.5 The High Court's view that CBDT circulars operate in the realm of internal administration overlooks settled law that binding instructions regulating the exercise of statutory power must be strictly followed**.** Once the format of the notice itself is prescribed, compliance ceases to be an internal matter and becomes a condition precedent for valid assumption of jurisdiction**.**

9.6 The finding that the initial notice under section 143(2) is merely an intimation is, with respect, contrary to settled legal position. The notice under section 143(2) is the foundation of jurisdiction for scrutiny assessment**,** and its validity must be tested independently. A defective notice cannot be treated as a curable procedural lapse.

9.7 The High Court's acceptance of the Revenue's contention that subsequent notices under section 142(1) can elicit details does not cure the defect. It is a settled principle that jurisdictional defects cannot be cured by subsequent proceedings. If the initial notice is invalid, all subsequent actions are rendered void.

9.8 The object of the scrutiny framework, as recognised by the High Court itself, is to reduce harassment and confine inquiry to specific issues**.** This objective can only be achieved if the notice clearly specifies whether the case falls under limited scrutiny or otherwise. Failure to do so defeats the very purpose acknowledged by the Court.

9.9 Judicial precedents have consistently held that in cases of limited scrutiny, the Assessing Officer's powers are restricted to identified issues**,** unless properly expanded with approval. This reinforces that clear identification of scrutiny type at inception is indispensable**.**

9.10 The analogy from penalty jurisprudence is directly applicable. Courts have repeatedly held that a vague or non-specific notice is fatal to the proceedings. Similarly, a notice under section 143(2) which does not conform to the prescribed format suffers from incurable legal infirmity**.**

9.11 The annexures relied upon by the Revenue before the High Court (and in the present case) do not represent CBDT-prescribed formats but are merely specimen notices from individual cases**,** containing case-specific particulars. This demonstrates that the Revenue's factual foundation itself is flawed.

9.12 The High Court decision does not consider several binding precedents and settled principles regarding the mandatory nature of CBDT instructions and the jurisdictional character of section 143(2) notice. To that extent, the ruling is distinguishable and does not conclude the issue.

9.13 Without prejudice, even assuming divergent judicial views, it is a settled principle that the interpretation favourable to the assessee must prevail**,** particularly in matters involving assumption of jurisdiction.

9.14 In view of the above, the impugned notice under section 143(2), being issued in breach of mandatory CBDT-prescribed format and without proper assumption of jurisdiction**,** is liable to be quashed, and the assessment proceedings deserve to be annulled.

10. <u>Our Findings</u>

10.1 We have carefully considered the rival submissions and perused the material available on record. The undisputed facts reveal that the notice under section 143(2) was issued within the prescribed limitation period and was duly served upon the assessee. Pursuant thereto, notices under section 142(1) were issued, details were called for from time to time, and the assessee participated fully in the assessment proceedings without raising any objection regarding the format of the notice. The challenge raised by the assessee is confined to the contention that the notice issued under section 143(2) did not conform to the format prescribed in CBDT Instruction dated 23.06.2017 and the said deviation cannot be cured under section 292B making the entire assessment invalid.

10.2 Section 143(2) mandates issuance of a notice requiring the assessee to attend and produce evidence in support of the return and neither the Act nor the Rules prescribe any statutory format for such notice. In our view the CBDT Instruction relied upon by the assessee is an administrative instruction intended to standardize departmental procedures and facilitate efficient conduct of scrutiny assessments. Therefore such instructions cannot elevate a procedural requirement into a statutory condition precedent, for assumption of jurisdiction unless the statute itself so provides. The essential jurisdictional requirement under section 143(2) is issuance of a notice conveying that the return has been selected for scrutiny. Admittedly, such notice was issued and served within time in the present cases.

10.3 It is the contention of the assessee that non-mentioning of the category of scrutiny in the notice renders the notice invalid. In this regard it is relevant to mention that the expressions "Limited Scrutiny", "Complete Scrutiny" or "Manual Scrutiny" do not find place in section 143(2). These are administrative classifications evolved by the Department for internal management of scrutiny proceedings. Therefore failure to mention such classification in the notice does not affect the substance of the statutory requirement nor does it deprive the Assessing Officer of jurisdiction validly assumed under the Act. The assessee has also failed to demonstrate any specific prejudice caused on account of the alleged deviation from the prescribed format. The assessment records reveal that the assessee was made aware of the issues under examination during the course of proceedings and effectively participated therein.

10.4 We also find support for the above view from the well-settled principle of statutory interpretation embodied in the maxim *expressio unius est exclusio alterius*. Section 143(2) expressly prescribes the essential requirements of a valid notice, namely issuance of notice within the prescribed time and requiring the assessee to attend or produce evidence in support of the return. The provision does not require the Assessing Officer to specify whether the case falls under Limited Scrutiny, Complete Scrutiny or Manual Scrutiny.

Where the legislature has consciously enumerated certain requirements, it is not permissible to read into the provision additional conditions which have not been expressly provided. Had Parliament intended disclosure of the category of scrutiny to be a condition precedent for assumption of jurisdiction, it would have specifically incorporated such requirement in the statute. Consequently, a requirement contained in an administrative instruction cannot be elevated to a statutory jurisdictional condition so as to invalidate a notice otherwise satisfying the mandate of section 143(2) of the Act.

10.5 The Act having expressly prescribed the conditions for a valid notice under section 143(2) of the Act. No further jurisdictional requirements can be imported into the provision on the basis of administrative instructions. Therefore, non-mentioning of the category of scrutiny in the notice cannot be treated as a jurisdictional defect, warranting annulment of the assessment proceedings. Rather, such omission, if at all, remains a procedural irregularity protected by section 292B of the Act.

10.6 The Revenue's contention is that the alleged defect, even if assumed to exist, is at best a procedural irregularity curable under section 292B. The revenue contends that the notice issued under section 143(2) substantially fulfills the purpose contemplated by the Act, namely informing the assessee that the return had been selected for scrutiny and requiring participation in assessment proceedings and that the defect complained of neither affects the existence of jurisdiction nor goes to the root of the assessment. The revenue further contends that the provisions of section 292B were enacted precisely to prevent invalidation of proceedings on account of technical mistakes, defects or omissions where the notice is in substance and effect in conformity with the intent and purpose of the Act.

10.7 At this juncture, it would be relevant to examine the scope of section 292B of the Act. The provision declares that no return of income, assessment, notice, summons or other proceeding shall be invalid merely by reason of any mistake, defect or omission if such return, assessment, notice, summons or proceeding is in substance and effect in conformity with or according to the intent and purpose of the Act. The legislative object behind insertion of section 292B, as explained in CBDT Circular No.179 dated 30.09.1975, was to ensure that proceedings validly initiated under the Act are not frustrated on account of technical or procedural lapses. The provision embodies the principle that substance should prevail over form and that procedural defects which do not affect the essence of the proceedings ought not to invalidate actions otherwise lawfully undertaken.

10.8 In the present case, the notice issued under section 143(2) undisputedly informed the assessee that its return had been selected for scrutiny and called upon it to participate in the assessment proceedings. The notice was issued by the competent authority within the period prescribed by law and was duly acted upon by the assessee. Thus, the essential statutory purpose underlying section 143(2), namely assumption of scrutiny jurisdiction and affording an opportunity to the assessee to substantiate the return, stood fully achieved. The omission to mention the category of scrutiny does not detract from the existence of the notice, the authority issuing it, the assessment year involved, the identity of the assessee, or the jurisdiction assumed there under.

Consequently, the notice remains in substance and effect in conformity with the intent and purpose of the Act.

10.9 In the present case, the notice effectively apprised the assessee of the scrutiny proceedings, pursuant to which the assessee participated in the assessment proceedings, filed detailed submissions and never raised any objection before the Assessing Officer. Further no prejudice or suspense has been demonstrated to have been caused to the assessee, the alleged procedural irregularity stands cured by section 292B of the Act.

10.10 The assessee's contention, if accepted, would amount to reading section 292B in an unduly restrictive manner. The defect alleged by the assessee does not relate to absence of notice, lack of authority, limitation, or any condition expressly prescribed by the statute. It concerns only the format in which the notice was issued pursuant to an administrative instruction. A distinction must necessarily be drawn between a case where jurisdiction is never assumed due to absence of a valid statutory notice and a case where jurisdiction is properly assumed but the notice contains an irregularity in form. Section 292B is intended to protect the later category. To hold otherwise would render the statutory saving provision otiose and permit technical objections to defeat substantive proceedings despite full compliance with the underlying requirements of law.

10.11 We are unable to accept the contention of the assessee that every breach of a CBDT Instruction issued under section 119 necessarily renders the consequential proceedings void. There is a distinction between the binding nature of an instruction upon departmental authorities and the legal consequences flowing from its breach. An instruction issued under section 119 undoubtedly binds the officers administering the Act. However, it does not follow that every departure from such instruction automatically nullifies proceedings otherwise validly initiated under the statute. The consequence of invalidation would arise only where the instruction itself supplements a statutory requirement or where the breach affects a condition precedent prescribed by the Act for assumption of jurisdiction.

10.12 In the present case, neither section 143(2) nor any provision of the Act mandates that the notice should specify whether the case has been selected for Limited Scrutiny, Complete Scrutiny or Manual Scrutiny. The requirement emanates solely from an administrative instruction intended to regulate the conduct of scrutiny proceedings. While the Assessing Officer may be accountable administratively for non-adherence to such instruction, the validity of jurisdiction assumed under section 143(2) must ultimately be tested with reference to the statutory requirements contained in the Act and not solely with reference to departmental guidelines.

10.13 The Hon'ble Supreme Court has consistently held that circulars and instructions cannot override or detract from the provisions of the Act. Equally, they cannot create a jurisdictional condition where the legislature has not chosen to enact one. Thus, it would be impermissible to import an additional jurisdictional requirement merely because an administrative instruction prescribes a particular format. To hold otherwise would effectively permit an executive instruction to amend the statutory scheme.

10.14 We are therefore of the view that the CBDT Instruction dated 23.06.2017 is binding upon the departmental authorities in the matter of administration and conduct of scrutiny proceedings. Nevertheless, non-adherence thereto, though capable of inviting administrative consequences, would not by itself invalidate a notice otherwise satisfying the statutory mandate of section 143(2), unless prejudice is demonstrated or the defect strikes at a condition expressly prescribed by the Act.

10.15 Acceptance of the assessee's argument would lead to the anomalous result that a procedural format prescribed by executive instruction would acquire a higher status than the statute itself. Such an interpretation would convert every administrative deviation into a jurisdictional defect and render section 292B largely redundant. The legislature, while enacting section 292B, consciously provided that notices and proceedings should not fail on account of defects of form if they are in substance and effect in conformity with the Act. Therefore, the binding nature of the instruction and the curative operation of section 292B must be harmoniously construed, with the result that breach of the instruction may constitute an administrative irregularity but not necessarily a jurisdictional nullity.

10.16 We are therefore of the considered view that the alleged non-conformity with the prescribed format neither affects the jurisdiction of the Assessing Officer nor causes any failure of the statutory purpose underlying section 143(2). The defect, if any, is one of form and not of substance. Such a defect squarely falls within the curative ambit of section 292B and cannot be invoked to invalidate the assessment proceedings.

10.17 The reliance placed by the assessee on decisions dealing with absence of notice, notices issued to non-existent entities, deceased persons, or other foundational jurisdictional defects is misplaced. In the present case, there is no dispute regarding issuance, service, limitation, identity of the assessee, or the authority of the Assessing Officer. The controversy relates only to the form in which the notice was issued. Such a defect cannot be equated with complete absence of jurisdiction.

11. We now propose to briefly deal with the decisions on which reliance is placed by the assessee/interveners.

11.1 In Hotel Blue Moon (supra), the question was whether for determination of undisclosed income for a block period u/s 158BC of the Act, it was mandatory to issue notice u/s 143(2). The revenue had contended that the issuance of notice is not essential requirement in a block assessment under Chapter XIV-B. The Hon'ble Supreme Court held for any reason AO has to repudiate the return filed by an assessee in response to notice issued u/s.158BC(a) of the Act, it is mandatory for the AO to issue notice u/s.143(2) of the Act. The said judgment of Hon'ble Supreme Court is distinguishable on facts.

11.2 Weilburger Coatings (India) (P.) Ltd. (supra), was not a case relating to any defect in the notice u/s 143(2) of the Act. In that case, the AO had passed the assessment u/s 143(3) on issue which was not part of the inquiry and thus it was found that the AO had exceeded his jurisdiction in making the addition.

11.3 Laxman Das Khandelwal (supra), is a case of total absence of notice u/s 143(2) in an assessment made arising out of search proceedings. It is difficult to see how the said decision can come to the aid of the assessee/interveners.

11.4 In Maruti Suzuki India Ltd. (supra), it was held that no assessment proceedings can be initiated or an order passed against an amalgamating company after its amalgamation. It was in this context held that the participation in the proceedings by the amalgamated company would not operate as estoppel against law.

11.5 The judgments of the Hon'ble Karnataka High Court in *Manjunatha Cotton and Ginning Factory* and the Full Bench of the Hon'ble Bombay High Court in *Mohd. Farhan A. Shaikh* arose in the context of penalty proceedings under section 271(1)(c) of the Act. Under the said provision, the Assessing Officer must be satisfied that the assessee has either concealed the particulars of income or furnished inaccurate particulars of such income. The existence of either of these two limbs, or both, is a statutory pre-condition for invoking penalty under section 271(1)(c). The Hon'ble Courts have held that unless the assessee is specifically informed as to the particular limb under which penalty proceedings are initiated, the assessee would be deprived of an effective opportunity to defend the proceedings. Consequently, failure to specify the applicable limb which is a statutory requirement causes prejudice to the assessee and amounts to a violation of the principles of natural justice. In the present case, however, there is no statutory mandate requiring the notice issued under section 143(2) of the Act to specify whether the case has been selected for limited scrutiny or complete scrutiny. Such a requirement emanates only from the format prescribed through administrative instructions issued by the CBDT and not from the provisions of the Act. Therefore, an administrative prescription governing the format of the notice cannot be elevated to the status of a statutory requirement, for initiating penalty proceedings under section 271(1)(c) of the Act.

11.6 Azadi Bachao Andolan (supra) was a case which arose out of the interpretation of Circular No. 789 dated 13.4.2000 issued by the CBDT in the context of the Indian Mauritius Double Taxation Avoidance Agreement (DTAC). The Hon'ble Supreme Court, inter alia, held that as long as the Circular is relatable to the powers exercisable by CBDT u/s 119, which is for the purpose of proper and efficient management of the work of assessment and collection of revenue the same is valid. It has been found that Section 119(1) is deliberately worded in general manner so that CBDT is enable to issue appropriate orders, instructions, directions to the subordinate authorities as it may deem fit for the proper administration of the Act, the nomenclature of the order notwithstanding. In our humble view, the decision does not involve any question similar to the one arising in the present reference.

11.7 The case of Sukhdev Singh involved twin questions as to whether an order for removal from service contrary to regulations of Oil & Gas Commission Act, 1959 and Industrial Financial Corporation, 1956 would enable employees to a declaration against statutory corporation of continuance in service or would only give rise to a claim for damages and secondly, whether an employee of a statutory corporation is entitled to claim protection of Articles 14 and 16 of the Constitution of India against the corporation. In short, the question was whether these statutory corporations were 'state' within the meaning of

Article 12 of the Constitution of India. In our humble opinion, the case involved altogether different issues.

11.8 The decision of the Supreme Court in Chandra Kishore Jha involved an issue of election petition being filed beyond the prescribed period of limitation. The Supreme Court on facts held that as The Indian Limitation Act, 1963 did not apply to election petition, Section 10 of the General Clauses Act would apply and the presentation of the election petition on the next day (on the expiry of period of limitation) would be considered within time.

11.9 In Berger Paints (supra), the question was about the deduction allowable u/s 43B of the Income Tax Act, i.e. on actual payment. In our humble view, the said decision also turned on its own facts as the decision of Gujarat High Court in the case of Lakhanpal National Ltd. vs ITO [1986] 162 ITR 240 taking a view against the revenue was not challenged and was allowed to attain finality.

12. We would now briefly deal with the two sets of decisions of this Tribunal taking contrary view as referred to in paras 2 and 3 above.

12.1 The decision of the Division Bench of this Tribunal in Tapas Kumar Das, Sajal Biswas, Hind Ceramics Pvt. Ltd., Anita Garg, Allied Concepts India Pvt. Ltd. mostly rely upon the previous decisions including that of Srimanta Kumar Shit which are all in favour of the assessee. None of these decisions have taken note of the decision of the Bangalore Benches in the case of Shri Veeranna Murthy Raghavendra Dikshit (supra) which is decided on 19.8.2024 which records a contrary view in favour of the revenue. Further, the issue of whether the notice u/s.143(2) of the Act not in the specified format is curable u/s.292B has not been considered in the orders of ITAT rendered in favour of the assessee. We have carefully gone through these decisions and we tend to approve the view taken by the Division Bench in Shri Veeranna Murthy Raghavendra Dikshit (supra). The Division Bench after taking note of the CBDT instruction dt. 23.6.2017 and section 282A and Section 292B of the Act has rightly come to the conclusion that the defective notice, if any, is protected under Section 292B of the Act. Following observations in para 13.6 and 13.7 are to the point.

> "*13.6 On going through the above section, we note that the notice issued in pursuance of any of the provisions of this Act shall not be invalid or deemed to be invalid merely by reason of any mistake, defect or omission in such notice if it is in substance and effect in conformity with or according to the intent and purpose of this Act. The purpose behind the introduction of section 292B of the Act was to ensure that technical pleas on the ground of mistake, defect, and omission should not invalidate the assessment proceedings, when no confusion or prejudice is caused due to non-observance of technical formalities. The assessee has challenged by way of additional ground that notice u/s 143(2) of the Act dated 24.9.2018 is not in accordance with the format prescribed by the CBDT Instruction cited (supra).*
>
> *13.7 On going through the above, we are of the opinion that the primary requirement is to go into and examine the question of whether any prejudice or confusion was caused to the assessee. If no prejudice/confusion was caused, then the assessment proceedings and their consequent orders cannot and should not be vitiated on the said ground of mistake, defect or omission in the notice. It is undisputed fact that notice u/s 143(2) of the Act dated 24.9.2018 was served on the assessee and as we observed in the assessment order, the assessee had filed submissions/replies/explanations in response to notices issued by AO and accordingly, we are of the opinion that assessee has cooperated with the proceedings before the AO. The assessee had also not raised any objection before the AO with regard to the issue of notice not in the prescribed format as per the CBDT Instruction on or before the*

completion of the Assessment proceedings. Further it is also not disputed that the notice is not signed and issued in paper format or communicated in electronic format. It is also not disputed that the name & office of the designated income tax authorities is not printed, stamped or written thereon. Upon careful consideration of the arguments presented, it is evident that while the format of the notice is important the primary concern is whether the notice effectively communicated the necessary information to the respondent or not? We are of the strong opinion that notice even though not in the prescribed format if it serves the intent & purpose of the Act, i.e. to inform the assessee and when there is no confusion in his mind about initiation of proceedings under the Act, the defective notice is protected under section 292B. In the present case, we found that no prejudice/confusion was caused to the assessee and the assessee filed explanation/submission & co-operated during the course of assessment proceedings & therefore, merely because of the procedural irregularities, we cannot accept the plea of the assessee that notice not served as per format prescribed by the CBDT instruction cited (supra), the entire consequential assessment proceedings including the assessment order are to be rendered bad in law and accordingly dismissed."

12.2 We record our concurrence with the principle as expressed. Therefore, in our considered view, the notice u/s 143(2) of the Act will not be invalidated merely on account of non-compliance with the format as prescribed by CBDT instruction dated 23.06.2017. The question would be of facts and circumstances of each case including as to the manner in which the assessee has participated in the proceedings indicating that he was aware of the issues which are proposed to be examined in the scrutiny proceedings along with the incidental issue of prejudice, if any, which has to be demonstrated and substantiated by the assessee in facts and circumstances of each case.

12.3 We also note that the ***Hon'ble Delhi High Court in Bharat Bansal v. NFAC (W.P.(C) 2238/2026 dated 17.02.2026)*** has considered an identical issues and has held that the CBDT Circulars dated 23.06.2017 and 13.10.2021, governing the selection of cases for scrutiny assessment, are administrative instructions meant for internal departmental guidance and that the circulars merely regulate the manner and categories of cases to be selected for scrutiny and the extent of such scrutiny. The Hon'ble High Court further held that therefore the Assessing Officer is not required to state in the notice under section 143(2) why the assessee’s case was selected and that a notice under section 143(2) is only an intimation of scrutiny selection, while the specific issues and information sought can be communicated subsequently through notices viz., notices u/s.142(1) of the Act, issued during the assessment proceedings. In the present case, the assessee's primary contention is with regard to non-compliance with Circular dated 23.06.2017 which has been considered by the Hon'ble High Court in the above case and, therefore, in our view the ratio laid down supports the stand that omission to specify the category of scrutiny does not invalidate the notice.

12.4 Accordingly, we hold that non-conformity of a notice under section 143(2) with the format prescribed in CBDT Instruction dated 23.06.2017 does not by itself render the notice invalid nor does it vitiate the consequential assessment proceedings. The alleged defect is procedural in nature and stands cured by section 292B of the Act.

12.5 It was contended on behalf of the assessee/interveners that the decision is distinguishable on facts. It was also submitted that if two views are possible, one in favour of the assessee must prevail, particularly in the matter of assumption of jurisdiction. We are unable to accept any of these contentions. Firstly, in the absence of any decision of the jurisdictional High Court on the point, decision of Delhi High Court binds us. The decision of the Delhi High Court unequivocally held that the instructions issued by CBDT and the department are only with a view to determine as to the case of category of cases to be taken up for scrutiny assessment and the nature of scrutiny which the High Court has held to be "totally an interdepartmental matter". Thus, in the absence of any other acceptable view, there is no question of preferring a view which is favourable to the assessee.

13. In result the question referred is thus answered in negative and in favour of the revenue. The appeals shall be placed before the regular bench for disposal according to law.

Order pronounced virtually on 13th day of July, 2026 at Chennai.

Sd/-	Sd/-	Sd/-
(Padmavathy S)	**(George George K)**	**(Justice (Retd.) C.V. Bhadang)**
Accountant Member	**Vice President**	**President**

चेन्नई/Chennai, दिनांक/Dated: *13th July, 2026.*

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF