IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO. 9105 OF 2022

Nikhil Nagindas Modi .. Petitioner

Versus

Deputy Commissioner of Income Tax – 1(2)(1), Mumbai and Others .. Respondents

Dr. Sunil Moti Lala a/w. Mr. Dharan Gandhi, for the Petitioner.

Mr. Suresh Kumar, for the Respondents.

CORAM: B. P. COLABAWALLA &
FIRDOSH P. POONIWALLA, JJ.
DATE: AUGUST 05, 2026

P. C.

1. Rule. Rule made returnable forthwith. With the consent of the parties, the Petition is taken up for hearing finally.

2. By way of the present Writ Petition, the Petitioner has challenged the Notice dated 30th March 2021 issued under Section 148 of the Income Tax Act, 1961 ("the Act") and the Order dated 10th March 2022 passed by the National Faceless Assessment Centre disposing of the objections raised by

the Petitioner against the initiation of reassessment proceedings for Assessment Year 2017-18.

3. The Petitioner is an individual resident of India, a proprietor of "The Link" which is in the business of publishing magazines and books. The Petitioner also earned salary income working with M/s. Exim Multimedia India Pvt. Ltd. as well as M/s. Shipping Times India Pvt. Ltd. For the year under consideration, the Petitioner filed his Return of Income under Section 139(1) of the Act on 25th October 2017 declaring a total income of Rs.67,13,390/-. The said Return of Income was processed under Section 143(1)(a) of the Act on 20th November 2017 and the returned income was accepted.

4. On 30th March 2021, Respondent No. 1 issued a notice under Section 148 of the Act seeking to reopen the Petitioner's assessment for Assessment Year 2017-18. It was claimed that the said notice was issued with the prior approval of Respondent No. 2, the Joint Commissioner of Income Tax, Range 1(2), Mumbai, under Section 151 of the Act. In response thereto, the Petitioner filed his Reply on 3rd April 2021 seeking the reasons recorded for reopening. After certain correspondence, the Petitioner filed his Return of Income on 28th December 2021 in response to the Notice under Section 148.

On 4th February 2022, the Petitioner was provided with a copy of the reasons recorded along with a copy of the approval of Respondent No. 2. To the reasons supplied, the Petitioner filed its detailed objections on 26th February 2022. Thereafter, on 4th March 2022, a Notice under Section 143(2) was issued. Subsequently, on 10th March 2022, Respondent No. 3 passed an Order disposing of the objections raised by the Petitioner.

5. The Petitioner has challenged the Notice under Section 148 and the Order disposing of objections on several grounds, including that there is no live link or nexus between the information received and the belief that income has escaped assessment; that the reassessment is based on borrowed satisfaction without independent application of mind; that there is no new tangible material; that the reasons recorded are vague and ambiguous; that the sanction under Section 151 is bad in law; and that the issuance of Notice under Section 143(2) before disposal of objections is in violation of the Judgment of the Apex Court in ***GKN Driveshafts (India) Ltd. vs. Income Tax Officer and Others reported in (2003) 259 ITR 19(SC).***

6. Dr. Sunil Moti Lala, the learned counsel appearing for the Petitioner, laid initial emphasis on the validity of the approval under Section 151 of the Act. He made two-fold submissions as under:

a) He submitted that the approval is unsigned. In this regard, attention was drawn to the relevant Exhibit, (Exhibit G) to show that the approval is not signed. He submitted that since there is no signature, it is not clear whether the approving authority has really applied his mind and has approved the issuance of Notice prior to the Notice under Section 148 issued on 30th March 2021. He submitted that an unsigned approval is not a valid approval in the first place. Reference was made to Section 282A(1) of the Act to submit that any document to be issued by any Income Tax Authority, including the sanction/approval to be issued by the Joint Commissioner under Section 151 of the Act, needs to be signed. In this regard, reliance was placed on the decision of the Bombay High Court in the case of ***Ambernath City Hospital (P.) Ltd. v. Union of India [2026] 182 taxmann.com 268 (Bombay)*** and of the Allahabad High Court in the case of ***Vikas Gupta v. Union of India [2022] 142 taxmann.com 253 (Allahabad).***

b) Without prejudice to the above, he submitted that, if it is held that there is an approval in the first place, then the approval demonstrates complete non-application of mind and does not satisfy the conditions of Section 151. This was evident from the fact that the sanction/ approval states that income escaping assessment is “0” (zero) . If that be the case, there is no need to reopen the assessment. He further submitted that a bare perusal of the reasons recorded show that the same are vague and bereft of any material fact. There is no mention in the reasons recorded of any particular transaction, date of transaction, whether there was a loss or gain from the transaction resulting in the alleged escapement of income. The reasons merely give a figure of the alleged income escaping assessment. No rational person can decipher from the same as to what is the exact reason to believe that income has escaped assessment. He submitted that such reasons recorded do not satisfy the requirement of Section 148 of the Act, and that when such vague reasons are approved, it would mean that the approval was granted mechanically and without any application of mind. For this proposition, he relied on the decision of this Court in ***Vodafone India Ltd. vs. DCIT reported in [2024] 464 ITR 385 (Bombay)***

7. On the other hand, the learned Counsel for the Respondent, did not really dispute the fact that the approval is unsigned. In fact, a copy of the approval has also been annexed to the Affidavit-in-Reply as Exhibit R-1.

Again, in the same Exhibit, there is no signature of the approving authority. He, however, submitted that there is no requirement in law that there should be a signature of the approving authority. The approval was through the electronic system and, therefore, there is an application of mind. He also submitted that the approval has a valid "Document Identification Number" (DIN) and therefore the same is valid in the eyes of law. On the aspect of signature, he drew our attention to Section 282A(2) of the Act to point out that sending of a notice or an approval from the email address of the corresponding authority or mentioning of the name of the approving authority in the approval would suffice, and would amount to proper authentication of the document. In this regard, reliance was placed on the decision of the Delhi High Court in the case of ***Asro Arcade v. Income-tax Officer [2026] 186 taxmann.com 313 (Delhi)***. He also relied upon the amendment brought about by the Finance Act, 2026 by insertion of Section 292BC to cure such kind of defects.

8. In rejoinder, Dr. Lala submitted that Section 282A(1) is very categorical and it specifies that any Notice or document has to be *"signed and issued"*. Therefore, he submitted that a signature is mandatory as held by the Allahabad High Court and the Bombay High Court. He submitted that the Delhi High Court in ***Astro Arcade (supra)*** relied upon by the Respondent

Revenue has not considered at all the provisions of Section 282A(1). In fact, the said provisions are not even referred to. He further relied upon the decision of the Bombay High Court in the case of ***Ambernath (supra)*** to show that even where a DIN has been quoted in the Notice, the same cannot substitute a signature (whether manual or digital) which is a statutory mandate. A DIN will not legalize the Notice because the other fundamental and jurisdictional aspect to issue a valid Notice is that it must be signed by the respective authority either manually or through a digital signature. On the aspect of Section 292BC, he submitted that the amendment is applicable with effect from 1^{st} April 2021 and therefore would not apply to the Notice under consideration. In any event, he pointed out that the validity of the said Section is challenged before this Court and various other Courts on the ground that the same is completely arbitrary and does away with the jurisdictional requirement of Section 151, which cannot be countenanced. He submitted that if such a provision is allowed to stand on the statute book, it will erase the purpose of Section 151, i.e. valid satisfaction and valid approval after proper application of mind before issuing a Notice under Section 148. He submitted that a signature is mandatory, though not sufficient or enough, to demonstrate that there was an application of mind by the correct approving authority and the same cannot be dispensed with at all.

9. We have carefully considered the submissions of the learned Counsel for the parties. Though a number of issues have been raised for our consideration, however, we find that since the approval is unsigned, and in our opinion the same is not in accordance with law and fatal, the entire reassessment proceeding would be rendered without jurisdiction. The same is elaborated later on. In light of the same, we do not intend to deal with the other issues raised.

10. Coming to the aspect of signed approval, Section 151 of the Act, as it stood prior to its amendment by the Finance Act, 2021, read as under:

> *"Section 151. Sanction for issue of notice.—(1) No notice shall be issued under section 148 by an Assessing Officer, after the expiry of a period of four years from the end of the relevant assessment year, unless the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner is satisfied, on the reasons recorded by the Assessing Officer, that it is a fit case for the issue of such notice.*
>
> *(2) In a case other than a case falling under sub-section (1), no notice shall be issued under section 148 by an Assessing Officer, who is below the rank of Joint Commissioner, unless the Joint Commissioner is satisfied, on the reasons recorded by such Assessing Officer, that it is a fit case for the issue of such notice.*
>
> *(3) For the purposes of sub-section (1) and sub-section (2), the Principal Chief Commissioner or the Chief Commissioner or the Principal Commissioner or the Commissioner or the Joint Commissioner, as the case may be, being satisfied on the reasons recorded by the Assessing Officer about fitness of a case for the issue of notice under section 148, need not issue such notice himself."*

11. The Hon'ble Supreme Court in ***Union of India v. Rajeev Bansal [2024] 469 ITR 46 (SC)*** has clearly explained the importance of

sanction under Section 151 and has held that the grant of sanction by the appropriate authority is a pre-condition for the Assessing Officer to assume jurisdiction under Section 148. Section 151 is not an empty formality. It is a statutory safeguard and check against arbitrary reopening. Non-compliance with that requirement strikes at jurisdiction itself. The relevant paragraphs of the decision in ***Rajeev Bansal (Supra)*** are as under:

> *"31. The Income-tax Act 1961 also mandates assessing officers to fulfil certain pre-conditions before issuing a notice of reassessment. Section 149 requires assessing officers to issue a notice of reassessment under section 148 within the prescribed time limits. Further, Section 151 requires assessing officers to obtain sanction of the specified authority before issuing notice under section 148. **In Chhugamal Rajpal v. S P Chaliha, [1971] 79 ITR 603 (SC)**, a three-Judge Bench of this Court held that Section 151 must be strictly adhered to because it contains "important safeguards."*
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> ...
>
> *73. Section 151 imposes a check upon the power of the Revenue to reopen assessments. The provision imposes a responsibility on the Revenue to ensure that it obtains the sanction of the specified authority before issuing a notice under section 148. The purpose behind this procedural check is to save the assesses from harassment resulting from the mechanical reopening of assessments **Sri krishna (P.) Ltd. v. ITO [1996] 87 Taxman 315/221 ITR 538 (SC)/[1996] 9 SCC 534.***
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> ...
>
> *76. Grant of sanction by the appropriate authority is a precondition for the assessing officer to assume jurisdiction under section 148 to issue a reassessment notice. Section 151 of the new regime does not prescribe a time limit within which a specified authority has to grant sanction. Rather, it links up the time limits with the jurisdiction of the authority to grant sanction. Section 151(ii) of the new regime prescribes a higher level of authority if more than three years have elapsed from the end of the relevant assessment year. Thus, non-compliance by the assessing officer with the strict time limits prescribed under section 151 affects their jurisdiction to issue a notice under section 148."*
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> *(emphasis supplied)*

12. Further, as held in ***Chhugamal Rajpal v. S.P. Chaliha***

[1971] 1 SCC 453 / [1971] 79 ITR 603 (SC), the requirement of Section 151 is not an empty formality and is a statutory safeguard and check against arbitrary reopening. To issue a Notice under Section 148, the Assessing Officer has to demonstrate that a valid approval was available before the Notice was issued. In the absence of any valid approval, the Notice under Section 148 is held to be bad in law.

13. To test whether there is a valid approval before issuance of Notice under Section 148, the minimum threshold that can be expected is that the approving authority has atleast gone through the reasons recorded and the material available on record and has given his remarks as to his satisfaction for reopening of assessment under his signature. That will be the bare minimum requirement to test that the approving authority has atleast gone through the reasons recorded and has then recorded his approval under his signature. In the absence of the signature as mandated under Section 282A(1), the alleged or so called approval would be invalid, being not in accordance with law.

14. This brings us to Section 282A(1) of the Act. The same is reproduced hereunder:

> *"282A.* ***Authentication of notices and other documents.****—(1) Where this Act requires a notice or other document to be issued by any income-tax*

> *authority, such notice or other document **shall be signed and issued** in paper form or communicated in electronic form by that authority in accordance with such procedure as may be prescribed.*
>
> *(2) Every notice or other document to be issued, served or given for the purposes of this Act by any income-tax authority, shall be deemed to be authenticated if the name and office of a designated income-tax authority is printed, stamped or otherwise written thereon.*
>
> *(3) For the purposes of this section, a designated income-tax authority shall mean any income-tax authority authorised by the Board to issue, serve or give such notice or other document after authentication in the manner as provided in sub-section (2)."*
>
> *(emphasis supplied)*

15. Section 282A(1) provides that where the Act requires a notice or other document to be issued by any income-tax authority, such notice or other document "*shall be signed* " and issued in paper form or communicated in electronic form by that authority in accordance with such procedure as may be prescribed. An approval would fall within the meaning of the word "other document." Therefore, it is mandatory to have a signature of the approving authority on the approval. In absence of a signature, there is no valid approval before issuance of a Notice under Section 148. Consequently, the Notice under Section 148 and the corresponding reassessment proceedings would be without jurisdiction.

16. We find complete support in this regard from the decision of the Hon'ble Allahabad High Court in the case of ***Vikas Gupta v. Union of India [2022] 142 taxmann.com 253 (Allahabad)***. The relevant

paragraphs are quoted hereunder:

"14. Thus, the following questions arise for consideration:-

(a) Whether an unsigned content in an electronic record said to be pushed through electronic mode at a particular point of time, can be said to be a valid satisfaction of the PCIT under section 151 for assumption of jurisdiction by the Assessing Officer to issue jurisdictional notice to an assessee under section 148 of the Act, 1961?

(b) Whether impugned notices under section 148 of the Act, 1961 issued by the Assessing Officer without satisfaction signed by the PCIT under section 151 of the Act, 1961, is a valid notice?

15. The whole case set up by the respondents is that "unsigned approval" issued in electronic form to the Assessing Officer is a valid approval as it is an authenticated document within the meaning of section 282A of the Act, 1961. Therefore, we proceed to examine correctness of the stand taken by the respondents in their oral submissions as also made in paragraphs 17, 18 and 19 of supplementary counter affidavit dated 2-5-2022.

Whether unsigned alleged approval is an authenticated document under section 282A of the Act, 1961:-

16. Sub-section (1) of section 282A contains the following necessary conditions:

(i) such notice or other document shall be signed by that Authority and

(ii) issued in paper form or communicated in electronic form by that authority

(iii) in accordance with such procedure as may be prescribed.

17. The procedure for communication in electronic form has been prescribed under rule 127A of the Rules 1962.

18. The first and foremost condition under sub-section (1) of section 282A is that notice or other document to be issued by any Income-tax Authority shall be signed by that authority. The word "and" has been used in sub-section (1), in conjunctive sense meaning thereby that such notice or other document has first to be signed by the authority and thereafter it may be issued either in paper form or may be communicated in electronic form by that authority. In the present set of facts, it is the admitted case of the respondents that the PCIT has not recorded satisfaction under his signature prior to the issuance of notice by the Assessing Officer under section 148 of the Act, 1961.

…

25. Thus the expression "shall be signed" used in section 282A(1) of the Act 1961 makes the signing of the notice or other document by that authority a mandatory requirement. It is not a ministerial act or an empty formality which can be dispensed with. "Signed" means to sign one's name; to signify assent or adhesion to by signing one's name; to attest by signing or when a person is unable to write his name then affixation of "mark" by such person. The document must be signed or mark must be affixed in such a way as to make it appear that the person signing it or affixing his mark is the author of it. <u>Therefore, a notice or other document as referred in section 282A (1) of the Act, 1961 will take legal effect only after it is signed by that Income-tax Authority, whether physically or digitally. The usage of the word "shall" make it a mandatory requirement.</u>

..

Question No. (a) and (b)

<u>27. The first and foremost condition under sub-section (1) of section 282A is that notice or other document to be issued by any Income-tax Authority shall be signed by that authority. The word "and" has been used in sub-section (1), in conjunctive sense, meaning thereby that such notice or other document has first to be signed by the authority and thereafter it may be issued either in paper form or may be communicated in electronic form by that authority.</u> In the present set of facts, it is the admitted case of the respondents that the PCIT has not recorded satisfaction under his signature prior to the issuance of notice by the Assessing Officer under section 148 of the Act, 1961.

28. Section 282A (1) of the Act, 1961 specifically provides that a notice or other documents issued by any Income-tax Authority shall be signed by that authority in accordance with such procedure as may be prescribed. Section 151 of the Act, 1961 specifically provides recording of satisfaction by the Prescribed Authority, on the reasons recorded by the Assessing Officer that it is a fit case for the issue of notice under section 148 of the Act, 1961. Unless such satisfaction is recorded, the Assessing Officer could not get jurisdiction to issue notice under section 148. A satisfaction, to be a valid satisfaction under section 151 of the Act, 1961, has to be recorded by the Prescribed Authority under his signature on application of mind and not mechanically, as also held by the Hon'ble Supreme Court in the case of Chhugamal Rajpal (supra). Unless the Prescribed Authority under section 151 of the Act, 1961 records his satisfaction on application of mind and under his signature, there cannot be a valid satisfaction empowering the Assessing Officer to assume jurisdiction to issue notice under section 148 of the Act, 1961. In other words, an Assessing Officer may issue jurisdictional notice under section 148 only after the Prescribed Authority under section 151 of the Act records his satisfaction that it is fit case for issue of notice under section 148.

29. In the present set of facts there was no valid satisfaction recorded by the by *the Prescribed Authority under section 151 of the Act, 1961 when the Assessing Officer issued notice to the assessees under section 148 of the Act, 1961. At the time when the notice under section 148 of the Act, 1961 was issued by the Assessing Officer to the petitioner there was no valid satisfaction recorded by the Prescribed Authority i.e. the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner. Subsequent to issuance of the notice under section 148 of the Act, 1961 by the Assessing Officer, the satisfaction under section 151 was digitally signed by the Prescribed Authority. Therefore, the point of time when the Assessing Officer issued notices under section 148, he was having no jurisdiction to issue the impugned notices under section 148 of the Act, 1961. Consequently the impugned notices issued by the Assessing Officer under section 148 of the Act, 1961 were without jurisdiction. The questions no. (a) and (b) are answered accordingly."*

(emphasis supplied)

17. We are in complete agreement with the view taken by the Allahabad High Court. In the context of notice under Section 148, we have taken a similar view in the case of ***Ambernath City Hospital (P.) Ltd. v. Union of India [2026] 182 taxmann.com 268 (Bombay).*** The relevant paragraphs are quoted hereunder:

"3. On the other hand, Mr.Sharma, the learned counsel appearing on behalf of the Revenue, submitted that though it is true that the Notice issued under Section 148 was neither digitally nor manually signed, the reason for the same was that there were a huge number of Notices to be issued during this period i.e. before 31st March 2021. The last date i.e. 31st March 2021, was the date on which the Notice would have become time barred, and due to a technical glitch / error, the Notice was duly mailed and received by the Assessee. He submitted that the Notice in fact has a Document Identification Number (DIN) with a date and the same was served on the Assessee. According to Mr.Sharma, all this material would satisfy the requirements of the Notice issued under Section 148 being valid, notwithstanding the fact that it is unsigned. In this regard, Mr.Sharma placed reliance on the decision of the Hon'ble High Court of Delhi in the case of Sonia Gandhi v. Asstt. CIT [2018] 97 taxmann.com 150 / 257 Taxman 515 / 407 ITR 594 (Delhi). Consequently, he submitted that there was no merit in the above Petition and the same ought to be dismissed.

4. We have perused the papers and proceedings in the above Writ Petition. We have also gone through the Notice issued under Section 148, as well as the Affidavit in Reply filed by the Revenue. It is not in dispute before us that the Notice issued under Section 148 is unsigned. It is neither digitally signed nor manually signed by the concerned Assessing Officer. <u>Once this is the case, we find that the issue in the present Petition is squarely covered by the decision of this Court in the case of Prakash Krishnavtar Bhardwaj (supra). This Court, after examining the law on the subject, has clearly opined that the Notice issued under Section 148, having no signature affixed to it, either digitally or manually, is invalid and would not invest in the Assessing Officer any further jurisdiction to proceed to re-assess the income of the Petitioner.</u> The relevant portion of the aforesaid decision is reproduced hereunder:

> *"19. Applying the ratio of the judgment of the Calcutta High Court in B.K. Gooyee and Aparna Agency (P) Ltd. (supra) to the facts of the present case, the signature of the Assessing Officer admittedly not having been affixed on the notice issued u/s.148 of the Act, the notice itself would be invalid and consequently, the Assessing Officer could not assume jurisdiction to proceed in the matter in terms of section 148 of the Act. The Madhya Pradesh High Court in Umashankar Mishra (supra) has dealt with a similar fact situation where the first substantial question of law dealt with in that case had considered the effect of whether an unsigned notice can be considered as an irregularity or clerical mistake. The Madhya Pradesh High Court after making reference to the conclusions drawn in B.K.Gooyee (supra) by the Calcutta High Court, has taken the view, that a notice without a signature affixed on it is an invalid notice and is effectively no notice in the eyes of law.*
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> *20. The Madhya Pradesh High Court in Umashankar (supra) has further dealt with the second substantial question of law as to whether the Tribunal was right in holding that the absence of a signature on the notice constitutes a mistake or omission within the meaning of section 292B of the Act and while addressing itself to that question, has concluded that in the absence of a signature on the notice, the same would not constitute a mistake or omission and would not be curable under the provisions of section 292B of the Act.*
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> *21. We are, therefore, of the considered opinion that in the present case, the notice u/s.148 dated 02.04.2022 having no signature affixed on it, digitally or manually, the same is invalid and would not vest the Assessing Officer with any further jurisdiction to proceed to reassess the income of the petitioner. Consequently, the notice dated*

02.04.2022 u/s.148 of the Act issued to the petitioner being invalid and sought to be issued after three years from the end of the relevant assessment year 2015-16 with which we are concerned in this petition, any steps taken by the respondents in furtherance of notice dated 21.03.2022 issued under clause (b) of section 148A of the Act and order dated 02.04.2022 issued under clause (d) of section 148A of the Act, would be without jurisdiction, and therefore, arbitrary and contrary to Article 14 of the Constitution of India. Consequently, we quash and set aside the notice dated 02.04.2022 issued by the respondents u/s.148 of the Act, order dated 02.04.2022 under clause (b) of section 148A of the Act and notice dated 21.03.2022 issued under clause (b) of section 148A of the Act."

(emphasis supplied)

5. We find that the ratio laid down by this Court in the case of Prakash Krishnavtar Bhardwaj (supra) is squarely applicable to the facts of the present case.

..

7. This apart, we find that Section 282A of the I.T. Act itself stipulates that where the I.T. Act requires the Notice or other document to be issued by the Income Tax Authority, such Notice or other document shall be signed and issued in paper form or communicated in electronic form by that authority in accordance with such procedure as may be prescribed. <u>In other words, there is a statutory mandate that a Notice issued under Section 148 has to be signed by the concerned Authority. Failure to do so, would render the Notice invalid.</u>

8. We are also unable to agree with Mr.Sharma that this is a defect that can be cured under Section 292B or 292BB. The Notice being unsigned, makes it invalid at its very inception and is not a curable defect. In fact this very same argument [with reference to Section 292B] was canvassed by the Revenue in the case of Prakash Krishnavtar Bhardwaj (supra) and the same was emphatically negated. As far as the reliance on Section 292BB is concerned, we find that the said Section is also wholly inapplicable to the facts of the present case. Section 292BB stipulates that where an Assessee has appeared in any proceeding, or cooperated in any inquiry relating to an assessment or reassessment, it shall be deemed that any Notice under any provisions of the Income Tax, which is required to be served upon the Assessee, has been duly served upon him in time in accordance with the provisions of the Income Tax Act and such Assessee shall be precluded from taking any objection in any proceeding or inquiry under the Act 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. This Section does not in any way bring to life a Notice which is invalid because it is unsigned. In fact, if

> *one were to construe Section 292BB in a way that the Revenue wants us to do, it would run counter to Section 282A which, as mentioned earlier, requires that when a Notice is to be issued by any Income Tax Authority under the IT Act, such Notice has to be signed. We, therefore, find that the reliance placed on Section 292BB is also of no assistance to the Revenue. Hence, we find no merit in this argument either."*
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> *(emphasis supplied)*

18. The above judgement will apply with equal force, where the approval as contemplated under Section 151 is unsigned.

19. Having said so, it will be only fair to deal with the arguments of the Respondents. The first argument is that the approval had a valid DIN and it was pushed through the electronic system and, therefore, the same is valid. Presence of a valid DIN does not dispense with the requirement of having a valid signature as required under Section 282A(1) of the Act. There are two different facets i.e., having a valid DIN and having a valid signature. One cannot dispense with the requirement of the other. A similar argument was raised by the Revenue before us in the case of ***Ambernath (supra)*** in paragraph 3 thereof and the same was not accepted by this Court. Therefore, we do not accept this argument of the Department.

20. The second argument of the Department is concerning Section 282A(2) of the Act which provides that every notice or other document shall be deemed to be authenticated if, *inter alia*, the name and office of the

income-tax authority is printed, stamped or otherwise written thereon. For this purpose, reliance was placed by the Department upon the decision of the Delhi High Court in the case of ***Asro Arcade (supra)***. We find that sub-section (2) of Section 282A does not override sub-section (1). Sub-section (1) of Section 282A is categorical and requires every document to be signed and issued. Sub-section (2) merely states that a document is deemed to be authenticated if, *inter alia*, it has the name of the officer printed on it. Fulfillment of the provisions of sub-section (2) cannot be the basis to justify non-fulfillment of the provisions of sub-section (1) as sought to be done by the Revenue-Respondent. Merely because a document is authenticated, does not necessarily follow that the same is fully in accordance with law. There is a difference between authenticity of the document and the legality of the document. A document may be authentic but may not be legal. For this reason, we do not accept this argument of the Department. We are, therefore, also not in agreement with the view taken by the Delhi High Court in the case of ***Asro Arcade (supra)***. We find that in the decision of the Delhi High Court there is no discussion on the provisions of sub-section (1) of Section 282A and, in fact, there is not even a reference to the said provision. Further, the Delhi High Court has rejected the assessee's reliance placed on judgements of the Madhya Pradesh High court ***(Umashankar Mishra V. CIT [1982] 136 ITR 330 (MP)) and Hon'ble Supreme Court***

(Narayana Chetty v. ITO [1959] 35 ITR 388 (SC)) by holding in paragraph 13 that:

> "*13. So far as the judgments relied upon by learned counsel for the petitioner are concerned, the same are of years 1982 and 1991, when the computers and electronically generated documents were not in vogue. The law, commerce and procedures are ever evolving; the judgment of years 1982 and 1991 on the issue in hand cannot be a guiding force in the present digital era.*".

21. Unfortunately , the Delhi High Court did not have the benefit of referring to the judgements of our Court in the case of ***Ambernath (supra)*** and that of the Allahabad High Court in ***Vikas Gupta (supra)*** rendered in the years 2026 and 2022, i.e. in the digital era, appreciating the statutory mandate of the signature as provided in Section 282A(1) and consequently setting aside the Notice under Section 148 and the approval / sanction for the same, in the absence of the signature. Moreover, in paragraph 11 the Delhi High Court has held that

> *"11. Since the name and the designation of the issuing officer has been mentioned, according to us, no signature is necessary. In the present era, when computer generated notice(s) and order(s) are being issued, the inscription of name(s) and the designation(s) is enough, <u>as no digital document can bear the signature."</u>*
>
> *(emphasis supplied)*

22. With respect we are unable to agree with the aforesaid findings. There are several electronic documents which bear a digital signature. In the present case, the Notice under Section 148 in fact is digitally signed, as is

evident from Page 81 of the Paper Book. Further, the Department has issued various instructions as guidelines for a digital or a manual signature. Therefore, the requirement of having a valid signature, either manual or digital, as per the provisions of Section 282A(1), is mandatory and cannot be dispensed with. As already noted earlier, we are in complete agreement with the view taken by the Allahabad High Court in the case of ***Vikas (supra)*** and this Court in case of ***Ambernath (supra),*** and with respect, we are unable to agree with the view taken by the Delhi High Court.

23. On the last aspect of Section 292BC, suffice it to say that the provisions are made retrospective with effect from 1 April 2021 and therefore they would not apply to the facts of the present case where the approval has been granted on 30 March 2021. Hence, we are not expressing any view on the validity or otherwise of the provisions of Section 292BC.

24. In light of the aforesaid discussion, we allow the Writ Petition in terms of prayer clause (a) which reads as under:

> *"(a) that this Hon'ble Court may be pleased to issue a Writ of Certiorari or a Writ in the nature of Certiorari or any other appropriate Writ, Order or direction, calling for the records of the Petitioner's case and after going into the legality and propriety thereof, to quash and set aside the said notice dated 30 March 2021 ('Exhibit D'), the subsequent Order dated 10 March 2022 ('Exhibit N'), notices u/s 142(1) of the Act dated 10.11.2021 ('Exhibit F') and 15.11.2021 ('Exhibit H') and notice u/s 143(2) of the Act dated 04.03.2022 ('Exhibit M')."*

25. Rule is made absolute in the aforesaid terms and the Writ Petition is also disposed of in terms thereof. However, there shall be no order as to costs.

26. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[FIRDOSH P. POONIWALLA, J.] **[B. P. COLABAWALLA, J.]**