IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "F" MUMBAI

BEFORE SHRI SANDEEP GOSAIN (JUDICIAL MEMBER)
AND
SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)

ITA No. 1987/MUM/2025
Assessment Year: 2013-14

Vinod Ramnath Rao, B 901, Palm Beach Residency, Sector 4, Nerul Node-III S.O, Navi Mumbai-400705. **PAN NO. AACPR 4534 J** **Appellant**	***Vs.***	CIT(A) National Faceless Appeal Centre, ITO Ward 28(3)(1), Vashi Navi Mumbai. **Respondent**

Assessee by	:	Mr. Bharat Raichandani a/w Mr. Bhaghirathi Sahu
Revenue by	:	Ms. Kavitha Kaushik, Sr. DR

Date of Hearing	:	09/12/2025
Date of pronouncement	:	20/01/2026

ORDER

PER OM PRAKASH KANT, AM

This appeal by the assessee is directed against order dated 31.08.2023 passed by the Ld. Commissioner of Income-tax (Appeals) – National Faceless Appeal Centre, Delhi [in short 'the Ld. CIT(A)'] for assessment year 2013-14, raising following grounds:

> *1. The notice under Section 143(2) without having proper jurisdiction and non est, and consequently, the order passed under Section 143(3) was invalid and cannot be curable. Further, the jurisdictional AO after assuming the jurisdiction,*

completed the assessment without issue of notice under section 143(2) of the income tax act.

2. The CIT(A) erred in passing order where Assessing Officer has made addition on account of long term capital gains of Rs.2,64,12,257/- without considering the valuation report produced before the learned assessing officer and CIT.

3. The Ld. CIT(A) erred in not considering the agricultural income declared by the assessee even after justifying the details of agricultural land held and income accrued on such land.

4. The Ld. CIT(A) erred in accepting the estimated addition made by the assessing officer which is very high considering the nature of business.

5. The learned CIT(A) erred in accepting the addition made under section 14A of the income tax act as the assesse has not incurred any expenditure with regards to income which do not form part of the total income and hence 14A provisions are not applicable.

2. At the very threshold, the learned counsel for the assessee submitted that there is a delay of **511 days** in filing the present appeal before the Tribunal. It was contended that the delay was neither deliberate nor attributable to negligence, but occurred due to compelling and unavoidable personal circumstances. In support, reliance was placed on the affidavit of the assessee, placed at pages 54 to 56 of the paper book. The relevant part of the affidavit is reproduced as under:

"5. That during January 2023, my mother fell critically ill and had to be hospitalised. Sadly she passed away in March 2023. The death certificate is attached herewith for your perusal. The undersigned was mentally depressed and weak due to mother's loss.

6. Further my daughter, Kashmira Rao had psychiatric issues, leading to her admission to a rehabilitation centre (Sunshine

Wellness Centre) on 2nd August 2023 and was in hospital for a month. She is discharged on 29th August 2023. A discharge card from the rehab centre is attached herewith for your consideration. She is admitted for Dissociative disorder and borderline personality disorder. She has fainting spells and conversion spells, hearing voices, passive death wish and restlessness.

7. As part of her treatment, my daughter was admitted to MGM Hospital, Vashi and Shushrusha hospital, Nerul for Electroconvulsive Therapy (ECT), also known as shock treatment. She is still receiving ongoing treatment for her psychological concerns. Her medical papers are attached herewith for your kindconsideration. She is even admitted to MGM hospital in Feb 25 and discharged in March 25 as on the date of affidavit. Documentary evidences are attached for your kind perusal.

8. The Ld Commissioner (Appeals) passed the order under Section 250 on 31st August 2023. The order of CIT passed on August 23 was skipped out of my mind due to my daughter's critical issues.

9. I became aware of the assessment order when a penalty order under Section 271(1)(c) was passed on 6th January 2025. The penalty appeal was filed on time.

10. Upon receiving this information, I immediately gathered all relevant data and documents, which were then sent to my Income Tax Consultant for appropriate action.

11.I sincerely state that the non-compliance with the notices was never intentional. It was solely due to the emotional challenges faced by me.

12.I respectfully file this affidavit before the Honourable Income Tax Appellate Tribunal, requesting an opportunity to represent my case and to seek condonation for the delay in filing the appeal due to the aforementioned circumstances."

3. From a careful perusal of the affidavit and the accompanying documentary evidence, it emerges that during the relevant period the assessee was faced with extraordinary emotional and personal distress. The assessee's mother fell critically ill in January 2023

and unfortunately passed away in March 2023, which caused severe mental trauma. Simultaneously, the assessee's daughter was suffering from serious psychiatric disorders, necessitating her admission to a rehabilitation centre and subsequently to different hospitals for specialised treatment, including electroconvulsive therapy (ECT). The medical records placed on record substantiate that the daughter remained under continuous treatment for a prolonged period, including hospitalisation in February–March 2025.

3.1 It is further evident that the order passed by the learned Commissioner (Appeals) under section 250 of the Act dated 31.08.2023 could not be acted upon in time, as the assessee was fully preoccupied with the critical medical condition of his daughter. The assessee became aware of the appellate order only upon receipt of the penalty order under section 271(1)(c) dated 06.01.2025, whereafter prompt steps were taken to file the present appeal. The explanation offered, supported by sworn affidavit and medical documents, demonstrates that the delay was occasioned by circumstances beyond the assessee's control.

3.2 The decisions cited by the parties in support of whether delay can be condoned or not , have been perused. The law relating to condonation of delay is well settled. The expression "sufficient cause" occurring in the statute is to receive a liberal and justice-

oriented construction so as to advance substantial justice. The Hon'ble Supreme Court in **Collector, Land Acquisition v. Mst. Katiji & Ors. (1987) 167 ITR 471 (SC)** has authoritatively held that when substantial justice and technical considerations are pitted against each other, the cause of substantial justice deserves to be preferred, and that a litigant does not stand to benefit by lodging an appeal late. It was further emphasised that a pedantic and hyper-technical approach should not be adopted while dealing with applications for condonation of delay. The Hon'ble supreme court in the case of Mool Chandra Vs Union of India in Civil Appeal No. 8435-8436 of 2024 [SLP(civil) Nos. 2722-2734 of 2024] after considering the law on the issue held as under:

> *22. If negligence can be attributed to the appellant, then necessarily the delay which has not been condoned by the Tribunal and affirmed by the High Court deserves to be accepted. However, if no fault can be laid at the doors of the appellant and cause shown is sufficient then we are of the considered view that both the Tribunal and the High Court were in error in not adopting a liberal approach or justice oriented approach to condone the delay. This Court in Municipal Council, Ahmednagar and Anr. Vs. Shah Hyder Beig and Ors. 2000 (2) SCC 48 has held:*
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> > *"6. Incidentally this point of delay and laches was also raised before the High Court and on this score the High Court relying upon the decision in Abhyankar case (N.L. Abhyankar v. Union of India [(1995) 1 Mah LJ 503]) observed that it is not an inflexible rule that whenever there is delay, the Court must and necessarily refuse to entertain the petition filed after a period of three years or more which is the normal period of limitation for filing a suit. The Bombay High Court in Abhyankar case [(1995) 1 Mah LJ 503] stated that the question is one of discretion to be followed in the facts and circumstances of each case and further stated:*

> *"The real test for sound exercise of discretion by the High Court in this regard is not the physical running of time as such but the test is whether by reason of delay, there is such negligence on the part of the petitioner so as to infer that he has given up his claim or where the petitioner has moved the writ court, the rights of the third parties have come into being which should not be allowed to be disturbed unless there is reasonable explanation for the delay."*

3.3 Applying the aforesaid principles to the facts of the present case, we are satisfied that the assessee has shown sufficient cause for the delay in filing the appeal. The reasons assigned are bona fide, duly supported by evidence, and disclose no element of mala fides or deliberate inaction. The delay has occurred due to compelling humanitarian circumstances, namely prolonged illness and hospitalisation of close family members, which reasonably prevented the assessee from taking timely legal recourse.

3.4 In view of the above, and respectfully following the ratio laid down by the Hon'ble Supreme Court, we condone the delay of 200 days in filing the appeal. The appeal is accordingly admitted for adjudication on merits**.**

4. Briefly stated, the facts of the case are that the assessee is a consulting naturopath. The assessee filed the return of income for the assessment year under consideration on 02.10.2013. The return was selected for scrutiny and statutory notices under the Income-tax Act, 1961 (hereinafter referred to as "the Act") including notice u/s 143(2) , were issued and complied with.

4.1 The Assessing Officer completed the assessment under section 143(3) of the Act vide order dated 28.03.2016, making, inter alia, the following additions:

(i) long-term capital gain on sale of property amounting to ₹2,64,12,257/-;
(ii) unexplained cash credit of ₹7,56,800/-;

(iii) income from profits and gains of business or profession amounting to ₹4,18,680/-; and

(iv) income from other sources amounting to ₹81,250/-.

4.2 On appeal, the learned Commissioner (Appeals) dismissed all the grounds raised by the assessee. Aggrieved, the assessee is in appeal before the Tribunal by way of raising grounds as reproduced above

5. The assessee has filed an application seeking admission of Ground No. 1 as an additional ground on the plea that the same is purely legal in nature and was not adjudicated by the learned Commissioner (Appeals).

5.1 The learned departmental representative on the other hand objected admission of the additional ground. She relied on the decision of the coordinate bench of the Tribunal, Agra in the case of Farrukhabad investment india Ltd vs ACIT reported in (2013) 34

taxmann.com 220 (Agra-trib) and submitted that said additional ground was not raised before the Ld. CIT(A) and therefore assessee was precluded from raising such ground before the ITAT.

5.2 We have heard rival submission of the parties and perused the relevant material on record. The Hon'ble Supreme Court in the case of *National Thermal Power Co. Ltd. v. Commissioner Of Income Tax* (1998) 229 ITR 383 (SC) has that additional ground could be raised before any stage of appeal proceedings if ground raise is legal , going to the root of the matter and no further investigation of the facts is required for determination of the said additional ground. After hearing the rival submissions, we are satisfied that the additional ground raises a pure question of law, goes to the root of the matter, and does not require any further investigation of facts. In the case of Farrukhabad investment India Ltd(supra), the assessee sought to raise additional ground by way of a separate application before the Tribunal after disposal of appeal which has been rejected by the Tribunal observing that *since the appeal of the assessee and the revenue reached finality on dismissal of respective appeals by the Tribunal, therefore such additional ground could not be raised at this stage, otherwise it would be amount to interfere with the order of the Tribunal dated 29/08/2008. It is well settled that all interim applications shall have to be decided before passing of the final order. In the aforesaid case, both cross objection and appeals have already been decided finally, therefore no interim application*

raising additional ground could be entertained at this stage. The Tribunal has become functus officio after passing the final order in this case on 29/08/2008 and as such has no jurisdiction to entertain application for admission of the additional ground after disposal of the main appeal. Evidently, the facts of the relied upon by the learned DR are distinguishable and ratio of the said decision cannot be imported over the facts of the instant case. Accordingly, following the decision of Hon'ble Supreme Court in the case of NTPC Ltd (supra), the additional ground is admitted for adjudication.

5.1 The learned counsel for the assessee submitted a paper book containing pages 1 to 119. With reference to the additional ground, the ld Counsel submitted that the first notice under section 143(2) of the Act dated 03.09.2014 was issued by the Income-tax Officer, ITO-21(3)(2), Mumbai, who did not have territorial jurisdiction over the assessee. It was contended that the assessee had disclosed his address as "602, Shivdeep Co-operative Housing Society, Plot No. 22, Sector-29, Vashi, Navi Mumbai" in the return of income and was deriving income from business and profession. Consequently, in terms of section 124 (1) of the Act, territorial jurisdiction vested with ITO-28(3)(4), Navi Mumbai. Therefore, in view of Ld. counsel for the assessee, the ITO 28(3)(4) was required to issue the statutory notice u/s 143(2) of the Act within the limitation period prescribed for issue of notice u/s 143(2) of the Act.

5.2 It was further submitted that upon realising the lack of jurisdiction, ITO-21(3)(2), Mumbai himself transferred the case records to the jurisdictional Assessing Officer, namely ITO-28(3)(4), Navi Mumbai. However, the jurisdictional Assessing Officer failed to issue any notice under section 143(2) of the Act within the prescribed period of limitation. According to the learned counsel, the notice issued by a non-jurisdictional officer is non est in law, and in the absence of a valid notice under section 143(2) by the jurisdictional Assessing Officer, the entire assessment proceedings are vitiated. In support, reliance was placed on a series of decisions of the coordinate benches of the Tribunal, wherein it has consistently been held that an assessment framed on the basis of a notice issued by a non-jurisdictional Assessing Officer is void *ab-initio* and unsustainable in law. The relevant parts of decisions of the Co-ordinate Bench of the Tribunal are reproduced as under:

> ***"A. ITAT Raipur in case of Mata Road Carriers Vs. DCIT, ITA No.79/RPR/2016 dated 10.07.2023.***
>
> *"Further, the coordinate bench of the Tribunal in the case of Ravi Sherwani, in ITA No.64/RPR/2020, vide order dated 29.05.2023, in para 11 has held that, "controversy involved in the present appeal lies in a narrow compass, i.e., sustainability of the assessment framed by the ACIT, Circle 4(1), Raipur vide his order passed u/s 143(3) of the Act, dated 29.03.2016, which in turn was based on a notice u/s 143(2) of the Act, dated 08.09.2014 issued by the ITO-1(3), Raipur, i.e a non-jurisdictional officer. We find that the issue involved in the present appeal is squarely covered by the order of this Tribunal in the case of Durga Manikanta Traders Vs. ITO, ITA No.59/RPR/2019 dated 12.12.2022;* ***wherein, it has been held, that in case an A.O vested with jurisdiction over the case of the assessee, had framed an assessment u/s.143(3) of the Act, by assuming jurisdiction to frame such assessment on***

the basis of notice u/s 143(2) of the Act issued by a non-jurisdictional officer, i.e an A.O who was not vested with pecuniary jurisdiction over the case of the assessee as per CBDT Instruction No.1 of 2011, then, the assessment so framed could not be sustained and was liable to be struck down for want of valid assumption of jurisdiction."

B. ITAT Raipur in case of Ravi Sherwani Vs. ACIT, ITA No.64/RPR/2020 dated 29.05.2023

"It is the claim of the assessee that as the ITO-1(3), Raipur, pursuant to the CBDT Instruction No.1/2011, dated 31.01.2011 (effective from 01.04.2011) r.w Instruction No. 6/2011, dated 08.04.2011, was not vested with the pecuniary jurisdiction over the case of the assessee for the year under consideration i.e. AY 2013-14, therefore, the impugned assessment so framed by the ACIT, Circle-4(1), Raipur, on the basis of notice issued u/s 143(2) of the Act by the ITO-1(3), Raipur cannot be sustained and was liable to be struck down on the said count itself.

....

Controversy involved in the present appeal lies in a narrow compass, i.e, sustainability of the assessment framed by the ACIT, Circle 4(1), Raipur vide his order passed u/s 143(3) of the Act, dated 29.03.2016, which in turn was based on a notice u/s 143(2) of the Act, dated 08.09.2014 issued by the ITO-1(3), Raipur, i.e a non-jurisdictional officer. We find that the issue involved in the present appeal is squarely covered by the order of this Tribunal in the case of Durga Manikanta Traders Vs. ITO, ITA No.59/RPR/2019 dated 12.12.2022; wherein, it has been held, that in case an A.O vested with jurisdiction over the case of the assessee, had framed an assessment u/s.143(3) of the Act, by assuming jurisdiction to frame such assessment on the basis of notice u/s 143(2) of the Act issued by a non-jurisdictional officer, i.e an A.O who was not vested with pecuniary jurisdiction over the case of the assessee as per CBDT Instruction No.1 of 2011, then, the assessment so framed could not be sustained and was liable to be struck down for want of valid assumption of jurisdiction.

.....

On the basis of my aforesaid deliberations, ***I am of the considered view that as the assessment framed in the case of the present assessee by the ITO-1(2), Raipur vide order u/s.143(3)(sic) dated 31.03.2015 on the basis of notice u/s.148 dated 18.06.2013 issued by the DCIT-1(1), Raipur i.e.***

a non- jurisdictional A.O, is devoid and bereft of any force of law, therefore, the same cannot be sustained and is liable to be struck down on the said count itself. *Accordingly, the impugned assessment framed by the ITO-1(2), Raipur u/s.143(3)(sic), dated 31.03.2015 is quashed for want of valid assumption of jurisdiction on his part.'*

C. ITAT Mumbai in case of Kiran Bhanwarlal Jogani Vs. ITO-5(3)(3), ITA No. 2441/Mum/2022 on 10.01.2023

"Return of Income for the above assessment year was filed by assessee on 14/03/2016 declaring Total Income at Rs.3,59,920/-. Though as per CBDT Instruction No.1/2011 (F. No. 187/12/2010-IT(A-1), Dated 31-01-2011, assessee being a non-corporate assessee residing in Metro City of Mumbai and having declared a total income of only Rs.3,59,920/- in ITR filed, being less than Rs.20 lacs, thus his pecuniary jurisdiction was vested with ITO 5(3)(3), Mumbai, however vide page No.5 and also page no.96 of Factual Paper-Book No.1, notice u/s.143(2) dated 28/07/2016 selecting his case for complete scrutiny was wrongly issued by Asstt. C.I.T. Circle-5(3)(1), Mumbai, who in view of CBDT Instruction No.1/2011 dated 31-01-2011 was not having pecuniary jurisdiction over the case of assessee.

.....

On perusal of abovementioned documents and also 1st page of impugned assessment order your honor will appreciate that it is established on record beyond any doubt that no notice u/s.143(2) in this case was ever issued by Id. ITO 5(3)(3), Mumbai who was holding the pecuniary jurisdiction over the case of assessee prior to passing of the impugned assessment order by him assailed in the present appeal. ***In view of the same impugned assessment order passed by Id. ITO 5(3)(3), Mumbai on the basis of notice u/s.143(2) issued by ACIT Circle-5(3)(1), Mumbai who was not holding pecuniary jurisdiction over the case of assessee but without issuing any own such notice u/s.143(2), which is sine qua non and a condition precedent to assume a lawful and valid jurisdiction for passing the assessment order under section 143(3) of the Act, therefore, impugned assessment order is invalid and void ab initio order and without jurisdiction.***

.....

8.1 In view of the above we set aside the orders of the revenue authorities by quashing the order of the assessment framed

u/s.143(3) of the Act since the issue of notice u/s.143(2) of the Act was not done by the ITO as specified in CBDT Instruction No.1/2011 dated 31.01.2011. As the assessment proceedings u/s. 143(3) of ITA No. 2441/Mum/2022 the Act have been held as invalid, therefore in our considered view the other issues raised by the assessee do not require any adjudication. Hence the grounds raised by the assessee is allowed."

D. ITAT Delhi in case of Manish Kumar & Sons Huf, Faridabad vs Ito, Ward- 1(5), Faridabad [I.T.A. No. 1563/Del/2018]

"Ld. Counsel for the assessee submitted that assessment framed u/s. 143(3) by ITO, Ward 1(5) Faridabad for the period under consideration (AY 2015-16) is void ab initio as notice u/s. 143(2) dated 26.7.2016 issued by DCIT, Circle 2, Hazaribagh, on the basis of returns regularly filed u/s. 139 dated 12.3.2016 with Faridabad address and no valid and legal notice u/s. 143(2) being issued by assessee's Assessing Officer (ITO Ward 1(5), Faridabad) as defined in Section 2(7A) of the Act who has framed impugned assessment, which creates a dent in the whole assessment, hence, the same may be quashed.

.....

I further note that the aforesaid Division Bench decision was duly followed by the SMC Bench, in the case of Sh. Yogesh Yadav vs. ITO passed in ITA No. 1757/Del/2016 (AY 2011-12) vide order dated 09.10.2017 being the identical facts / reasoning with the aforesaid case of Al Faheem Meatex Exports Pvt. Ltd. (Supra) and accordingly assessment framed as declared as void-ab-initio.

10. Keeping in view of the facts and circumstances of the case and respectfully following the aforesaid precedents being the identical facts of the present case, I hold the present assessment is void ab initio, hence, the same is quashed and accordingly, the additional legal ground raised by the assessee is allowed. Since I have quashed the assessment on the legal ground itself, the other grounds on merit became academic, hence, need not be adjudicated."

E. ITAT Delhi in case of Lsr Foods Ltd., New Delhi vs ITO, New Delhi [ITA No.1206/Del/2017],

"The Ld.AR for the assessee has submitted that the order passed by AO u/s 143(3) of the Act is void ab-initio and invalid because the AO has no jurisdiction to pass the assessment order and no notice

was issued by the jurisdictional assessing officer. The Ld AR has also submitted that the notice issued by the ACIT, circle (5) (1) New Delhi was without jurisdiction.

.....

In view of the aforesaid observations and respectfully following the judicial precedent relied upon hereinabove, we have no hesitation to hold that the assessment framed under section 143(3) of the Act deserves to be quashed in the instant case as the initial scrutiny notice issued under section 143(3) of the Act dated 12.04.2016 by ITO was without jurisdiction as he did not possess jurisdiction over the assessee for the A.Y. 2015-16. Consequently, assessment framed under section 143(3) of the Act is hereby quashed as void ab initio."

5.3 The Ld. counsel also relied on the decision of the Co-ordinate Bench of the Tribunal in the case of Navita Gupta v. ITO in ITA No. 351/Del/2024.

5.4 Per contra, the learned Departmental Representative submitted that the assessee did not object to the jurisdiction during the course of assessment proceedings. Relying on section 124(3) of the Act, it was contended that since no objection was raised within the prescribed time, the assessee is precluded from challenging the assessment on the ground of jurisdiction at this stage. The learned DR relied on the decision of Hon'ble Supreme Court in the case of DCIT, exemption vs Kalinga Institute of industrial technology reported in (2023) 151 taxmann.com 434(SC), and decision of Hon'ble Chhattisgarh High Court in the case of Harish Kumar Chhabada Vs principal commissioner of income-tax, reported in (2025) 179 taxmann.com 589 (Chattisgarh).

6. We have carefully considered the rival submissions and perused the material available on record. The additional ground raised by the assessee challenges the very assumption of jurisdiction by the Assessing Officer on account of an invalid notice under section 143(2) of the Act issued by the Income-tax Officer (transferor officer) having designation as ITO-21(3)(2), Mumbai on 03.09.2014

6.1 It is an undisputed fact that the assessee had disclosed his address at Navi Mumbai in the return of income and that such address fell within the territorial jurisdiction of ITO-28(3)(4), Navi Mumbai. It is also evident from the record that the initial notice under section 143(2) dated 03.09.2014 was issued by ITO-21(3)(2), Mumbai, who admittedly did not possess jurisdiction over the assessee. The subsequent transfer of records by the said officer to ITO-28(3)(4), Navi Mumbai itself establishes that the latter was the jurisdictional Assessing Officer.

6.2 Under the scheme of the Act, issuance of a valid notice under section 143(2) by the jurisdictional Assessing Officer within the prescribed limitation period is a **condition precedent** for framing a lawful assessment under section 143(3). The limitation for issuance of such notice for the relevant assessment year expired on 30.09.2014. Admittedly, no notice under section 143(2) was issued by the jurisdictional Assessing Officer within the said period.

6.3 A notice issued by a non-jurisdictional Assessing Officer is void and without authority of law, and such a foundational defect cannot be cured by subsequent participation of the assessee in the assessment proceedings. The defect goes to the root of the matter and renders the entire assessment proceedings invalid.

6.4 The ld DR has referred to section 124(3) of the Act to contest that the assessee can't call in question the jurisdiction after issue of notice u/s 143(2) beyond the period of one month where return of income is filed either u/s 139(1) or section 142(1) of the Act, but the bar contained in section 124(3) of the Act applies to cases of *irregular exercise of jurisdiction* and not to cases of *complete absence of jurisdiction*. Where the assumption of jurisdiction itself is illegal due to lack of a valid notice under section 143(2) by the competent Assessing Officer, the assessment is void ab initio and can be challenged at any stage. In the case , the transferor officer was not having jurisdiction , but he already transferred the records to valid jurisdiction officer, therefore , there was no occasion for the assessee to challenge the jurisdiction of the present Assessing officer, who ultimately passed the assessment order. In the case assessee has pointed out the valid jurisdictional officer has not issued the notice u/s 143(2) of the Act and the officer who issued notice u/s 143(2) was not having valid jurisdiction.

6.5 The consistent view taken by the coordinate benches of the Tribunal, including in cases where assessments were framed on the

basis of notices issued by non-jurisdictional officers, fully supports the assessee's contention. The ratio laid down therein squarely applies to the facts of the present case.

6.6 In the case of Gulf view Homes Ltd vs ACIT banglore Bench 88 ITR 423 (ban-Tri) the original notice u/s 143(2) issued by the transferor officer itself was invalid for the reason that the said officer had no jurisdiction over the assessee. In the case relied upon by the DR also the jurisdiction of officer who had passed the assessment order has been challenged by the assessee in view of section 124(3) but in the case , the assessee has pointed out the valid jurisdictional officer has not issued the notice u/s 143(2) of the Act and the officer who issued notice u/s 143(2) was not having valid jurisdiction.

6.7 In view of the above discussion, we hold that the assessment proceedings suffer from a **fundamental jurisdictional defect**, being the absence of a valid notice under section 143(2) of the Act issued by the jurisdictional Assessing Officer within the prescribed limitation period. Such a defect is incurable and renders the assessment order illegal and void ab initio.

6.8 Accordingly, the assessment order passed under section 143(3) of the Act is **quashed**. The additional ground No. 1 raised by the assessee is **allowed**. Since the assessment itself has been annulled on this legal issue, the other grounds raised on merits do

not survive for adjudication and are rendered academic and accordingly are left open.

7. In the result, the appeal of the assessee is allowed.

Order pronounced in the open Court on 20/01/2026.

Sd/-	**Sd/-**
(SANDEEP GOSAIN)	**(OM PRAKASH KANT)**
JUDICIAL MEMBER	**ACCOUNTANT MEMBER**

Mumbai;
Dated: 20/01/2026
Rahul Sharma, Sr. P.S.

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

BY ORDER,

//True Copy//

(Assistant Registrar)
ITAT, Mumbai