

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

**BEFORE SHRI YOGESH KUMAR US, JUDICIAL MEMBER
AND
SHRI SANJAY AWASTHI, ACCOUNTANT MEMBER**

**आ.अ.सं./I.T.A No.67/DDN/2026
निर्धारणवर्ष/Assessment Year: 2012-13**

SITANSHU GUPTA, 100/100, Block 2, Lunia Mohalla, DEHRADUN, UTTRAKHAND 248001. PAN No.BDMPS2841B	बनाम Vs.	INCOME TAX OFFICER, Ward 2(4), DEHRADUN, UTTRAKHAND.
अपीलार्थी Appellant		प्रत्यर्थी/Respondent

Assessee by	Shri Anil Kumar Jain, Advocate
Revenue by	Ms. Poonam Sharma, CIT DR

सुनवाईकीतारीख/ Date of hearing:	06.04.2026
उद्घोषणाकीतारीख/Pronouncement on	15.04.2026

आदेश /O R D E R

PER SANJAY AWASTHI, ACCOUNTANT MEMBER:

1. This appeal arises from order dated 30.12.2025 u/s 250 of the Income Tax Act, 1961 (hereafter as "the Act") by NFAC, Delhi. In this case, the assessee's case was reopened for reassessment on the basis of information received from DDIT-Investigation-1, Faridabad. Thereafter, the Ld. AO made an addition of Rs.223,33,376/-.

1.1 Aggrieved with this action, the assessee approached the Ld. CIT(A), where also he could not succeed on the basis of detailed findings given in the impugned order.

1.2 Further aggrieved, the assessee has approached the ITAT with nine grounds out of which the Ld. AR stated that ground no.4 pertaining to the non-issuance of a statutory notice u/s 143(2) of the Act needed to be decided before proceeding any further in the matter.

2. Before us, the Ld. AR placed on record the Form 35 filed before the Ld. CIT(A) in which the ground no. 1.4 was specifically on the issue of notice u/s 143(2) of the Act not being issued by the Ld. AO. The Ld. AR read out from the impugned order at pages 6 & 7 whereby the absence of any notice u/s 143(2) of the Act has been dealt with by the Ld. CIT(A) and decided against the assessee following the provisions of section 292BB of the Act. It is recorded in the impugned order that the assessee never raised any objection before the Ld. AO and hence he would be debarred from raising any objection at appellate stage on that issue.

2.1 The Ld. DR relied on the findings of the Ld. CIT(A) and stated that the provisions of section 292BB of the Act would protect the Ld. AO when it came to the matter of non-issuance of notice u/s 143(2) of the Act.

3. We have carefully considered the rival submissions and have gone through the records before us. For the sake of capturing the facts it needs to be mentioned that a notice u/s 148 of the Act was issued on 27.03.2019 and the assessee filed a return of income on 14.05.2019. Thus, there was a legal requirement to issue a notice u/s 143(2) of the

Act as has been held in the case of Hotel Blue Moon reported in 188 Taxman 113 (SC) and the case of Laxman Das Khandelwal reported in 108 taxmann.com 183 (SC). The argument of the Ld. DR that the provisions of section 292BB of the Act would protect the Ld. AO, cannot cure this fatal defect since 292BB would protect the AO only in case of any defect in the service of notice u/s 143(2) of the Act. There would be no protection in case a notice was never issued by the Ld. AO. Accordingly, we allow ground no.4 of the assessee and quash the resultant assessment order.

4. In the result, this appeal is allowed.

Order pronounced in the open court on 15.04.2026

Sd/-
(YOGESH KUMAR US)
JUDICIAL MEMBER

Sd/-
(SANJAY AWASTHI)
ACCOUNTANT MEMBER

Dated: 15.04.2026

**Kavita Arora, Sr. P.S.*

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI