



2025:CGHC:50032-DB

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HIGH COURT OF CHHATTISGARH AT BILASPUR

TAXC No. 138 of 2023

*{Arising out of order dated 12-12-2022 passed by the Income Tax
Appellate Tribunal, Raipur Bench, Raipur in ITA No.323/RPR/2016}*

(Assessment Year 2012-13)

Harish Kumar Chhabada, S/o Pinjaram Chhabada, Aged about 56 years,
Prop. of M/s. Sona Agency, House No.490, Near Rly Line Road, Samta
Colony, Raipur-492001, Chhattisgarh

... Appellant

versus

Pr. Commissioner of Income Tax Income Tax Officer-2(1), Central
Revenue Building, Civil Line, Raipur, Chhattisgarh

... Respondent

For Appellant : Dr. Shiv Kumar Shrivastava, Advocate.

For Respondent : Mr. Ajay Kumrani, Advocate on behalf of Mr. Amit
Chaudhari, Senior Standing Counsel for the Income
Tax Department.

Division Bench: -
Hon'ble Shri Sanjay K. Agrawal and
Hon'ble Shri Radhakishan Agrawal, JJ.

Judgment on Board
(08/10/2025)

Sanjay K. Agrawal, J.

1. Invoking the appellate jurisdiction of this Court under Section 260A of the Income Tax Act, 1961 (for short, 'the IT Act'), the appellant herein/assessee has preferred this appeal questioning legality, validity and correctness of the order dated 12-12-2022 passed by the

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Income Tax Appellate Tribunal, Raipur Bench, Raipur in ITA No.323/RPR/2016 by which the appellant's statutory appeal has been dismissed by the ITAT finding no merit.

2. The aforesaid appeal preferred by the appellant/assessee was admitted for hearing by this Court on 29-8-2025 by formulating the following substantial question of law: -

“Whether the ITAT was justified in upholding the validity of assessment under Section 143(3) based on a notice under Section 143(2) issued by the non-jurisdictional Assessing Officer, solely relying on the address in the PAN?”

3. The aforesaid substantial question of law arises on the following factual backdrop: -
4. The appellant herein/assessee is engaged in the business of trading in electrical goods under the name and style of M/s. Sona Agency situated at Street of Dena Bank, Jawahar Nagar, M.G. Road, Raipur. The appellant/assessee filed his return of income for the assessment year 2012-13 electronically on 17-9-2012 with ITO, Ward-1(2), Raipur, declaring total income of ₹ 2,96,390/- and in the PAN database, at that time, his residential address was shown as House No.490, Nearly Railway Line, Sachdeva Nursing Home Gali, Samta Colony, Raipur, Chhattisgarh. The said residential address determines the assessee's territorial jurisdiction. Accordingly, on 8-8-2013, on the basis of the aforesaid PAN address, ITO, Ward-1(1), Raipur, who had jurisdiction over Samta Colony, Raipur, issued notice to the assessee under Section 143(2) of the IT Act dated 8-8-2013, duly served on him on 21-8-2013. Thereafter, on 25-8-2014

and 12-12-2014, notices under Sections 143(2) and 142(1) of the IT Act, respectively, were issued to the assessee, during the course of scrutiny, continuing the same line of jurisdiction based on the PAN address. Vide notification dated 15-11-2014, territorial reallocation of wards at Raipur was undertaken and consequent upon this restructuring, the jurisdiction over the area comprising Samta Colony stood automatically transferred to ITO, Ward-2(1), Raipur and thereafter, the ITO, Ward-2(1), Raipur, on 18-3-2015, pursuant to the notice issued earlier, continued the jurisdiction after reallocation and passed the order of assessment under Section 143(3) of the IT Act on 18-3-2015 determining total income at ₹ 28,38,520/- by including the additions as (i) disallowance under Section 40(a)(ia) of the IT Act of ₹ 4,59,219/- and (ii) addition of ₹ 20,82,915/- on undisclosed turnover.

5. Feeling aggrieved and dissatisfied with the order dated 18-3-2015 passed by the Assessing Officer (AO), the assessee preferred an appeal before the Commissioner of Income Tax (Appeals) and the CIT (Appeals)-I, Raipur by its order dated 14-7-2016 partly allowed the appeal deleting the disallowance under Section 40(a)(ia), but the addition of ₹ 20,82,915/- on undisclosed turnover was reduced to ₹ 11,53,939/- and disposed of the appeal accordingly.
6. The assessee/appellant herein not being satisfied with the part of the order rejecting his contention sustaining the addition of ₹ 11,53,939/-, preferred an appeal before the ITAT, Raipur and raised an additional ground alleging lack of jurisdiction and invalid notice

under Section 143(2) of the IT Act. The ITAT by its impugned order held that the notice dated 8-8-2013 issued by the ITO, Ward-1(1), Raipur was valid being based on the PAN database residential address relying upon the decision of the Supreme Court in the matter of **Principal Commissioner of Income-tax, Mumbai v. I-Ven Interactive Ltd.**¹ in which it has been held that issuance of notice at the PAN-based address constitutes valid assumption of jurisdiction when the assessee has not intimated any change in address in the departmental database. The ITAT further held that subsequent transfer of jurisdiction to ITO, Ward-2(1), Raipur as per the notification dated 15-11-2014 was lawful and the assessment framed by the AO on 18-3-2015 was valid, and relying upon the provision contained in Section 124(3)(a) of the IT Act, the ITAT has also held that the assessee's challenge was barred as he failed to raise any objection within one month of service of notice under Section 143(2) or within one month from the date of completion of assessment and proceeded to dismiss the appeal. Questioning that order, the present appeal has been preferred.

7. Dr. Shiv Kumar Shrivastava, learned counsel appearing on behalf of the appellant herein/assessee, would submit that the ITAT is absolutely unjustified in rejecting the appeal of the assessee, as the ITAT has decided the appeal on the basis of service of notice under Section 143(2) of the IT Act by the ITO, Ward-1(1), Raipur upon the assessee on the residential address as shown in the PAN database

¹ [2019] 418 ITR 662 (SC)

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and the ITAT has not considered the fact that the assessee has carried out his business and therefore the jurisdictional AO as per Section 2(7A), 124(1)(a), 124(1)(b) & 120(3) of the IT Act would be on the basis of his place of business and not on the basis of residential address shown in the PAN database. He would rely upon the decision of the Supreme Court in the matter of **Kanwar Singh Saini v. High Court of Delhi**² to buttress his submission. He would further submit that the assessment order passed by the ITO, Ward-2(1), Raipur dated 18-3-2015 after the notification dated 15-11-2014 on the basis of residential address of the assessee as per records of the PAN card, is invalid and liable to be quashed on the ground of lack of inherent jurisdiction, as the assessee has business income and has filed return of income for the assessment year 2012-13 and hence under Sections 124(1)(a) & 124(1)(b) of the IT Act, jurisdiction of AO would be on the basis of his place of business, and not as per residential address mentioned in the PAN card. He would further rely upon the decision of the Supreme Court in the matter of **Union of India v. Rajeew Bansal**³ (paragraphs 31 & 32) and also upon the decision of the Calcutta High Court in the matter of **Principal Commissioner of Income-tax v. Cosmat Traders (P.) Ltd.**⁴ as also upon the decision of the Bombay High Court in the matter of **Commissioner of Income tax-1, Nagpur v. Lalitkumar Bardia**⁵ in support of his contention. Prayer has

² (2012) 4 SCC 307

³ [2024] 469 ITR 46 (SC)

⁴ [2023] 146 taxmann.com 207 (Calcutta)

⁵ [2018] 404 ITR 63 (Bombay)

been made to set aside the order of the ITAT in toto by granting the appeal.

8. Mr. Ajay Kumrani, learned counsel appearing on behalf of the respondent herein/Revenue, would support the impugned order and oppose the appeal and submit that the ITAT is absolutely justified in holding that the order dated 18-3-2015 passed by the AO i.e. ITO, Ward-2(1), Raipur is in accordance with law, as the notice dated 8-8-2013 issued by the ITO, Ward-1(1), Raipur was valid being based on PAN database residential address of the assessee and by the notification dated 15-11-2014, by operation of law, the jurisdiction originally exercised by the ITO, Ward-1(1), Raipur validly devolved upon the ITO, Ward-2(1), Raipur, which has passed the assessment order. The assessee has failed to raise objection under Section 124(3) of the IT Act within one month of service of notice or within one month from the date of issuance of notice or completion of assessment, as such, the appeal has rightly been dismissed by the ITAT.
9. We have heard learned counsel for the parties and considered their rival submissions made herein-above and also gone through the record with utmost circumspection.
10. As noticed herein-above, the assessee has filed his return of income for the assessment year 2012-13 electronically on 17-9-2012 with the ITO, Ward-1(2), Raipur, declaring total income of ₹ 2,96,390/- and in the PAN database, at that time, his residential address was shown

as House No.490, Nearly Railway Line, Sachdeva Nursing Home Gali, Samta Colony, Raipur, Chhattisgarh. On the basis of the said PAN database address, the ITO, Ward-1(1), Raipur, who had jurisdiction over Samta Colony, Raipur, issued notice under Section 143(2) of the IT Act on 8-8-2013, which was undisputedly served upon the assessee on 21-8-2013. Thereafter, notices under Sections 143(2) & 142(1) of the IT Act were issued to the assessee on 25-8-2014 and 12-12-2014, respectively, during the course of scrutiny, which were served upon the assessee on the basis of the address shown in the PAN database. However, by notification dated 15-11-2014, the territorial reallocation of wards at Raipur was undertaken and accordingly, the jurisdiction over the area comprising Samta Colony has been transferred to the ITO, Ward-2(1), Raipur, as such, by operation of law, the jurisdiction originally exercised by the ITO, Ward-1(1) stands transferred to the ITO, Ward-2(1), Raipur, who has passed the assessment order making additions as mentioned above to the extent of ₹ 20,82,915/-. Till this date, no objection was raised to the jurisdiction of the ITO, Ward-2(1), Raipur by the assessee and the assessee has preferred appeal before the CIT (Appeals) who has considered the appeal and granted relief in part, as the addition of ₹ 20,82,915/- was reduced to ₹ 11,53,939/- on undisclosed turnover. Before the CIT (Appeals), no ground qua the jurisdiction of the Assessing Officer i.e. the ITO, Ward-2(1), Raipur was raised by the assessee. When the appeal was partly rejected by the CIT (Appeals) and when further appeal was filed before the

ITAT, the ground with regard to lack of jurisdiction by the AO under the ITO, Ward-2(1), Raipur was raised which was considered by the ITAT and rejected on the following grounds: -

1. Notice dated 8-8-2013 was issued by the ITO, Ward-1(1), Raipur, under Section 143(2) of the IT Act to the assessee, who has jurisdiction over Samta Colony, as in PAN database of the assessee, residential address of the assessee was shown to be Samta Colony, Raipur.
 2. Subsequent transfer of jurisdiction to the ITO, Ward-2(1), Raipur on account of the notification dated 15-11-2014 was by operation of law and therefore the assessment framed by the AO is valid.
 3. The assessee did not raise any ground as required under Section 124(3)(a) of the IT Act till the appeal was partly granted by the CIT (Appeals) and therefore the ground of jurisdiction was barred by virtue of the provision contained in Section 124(3)(a) of the IT Act.
11. Admittedly, in the PAN database of the appellant herein/assessee, the address shown is Samta Colony, Raipur and after reallocation of wards at Raipur by the notification dated 15-11-2014, the ITO, Ward-2(1), Raipur had the jurisdiction over Samta Colony, and thus, by operation of law, the jurisdiction originally exercised by the ITO, Ward-1(1), Raipur, who had issued notice under Section 143(2) of the IT Act on 8-8-2013 based on PAN database residential

address, validly devolved upon the ITO, Ward-2(1), Raipur.

12. The Supreme Court in **I-Ven Interactive Ltd.’s** case (supra) has held that a notice under Section 143(2) of the IT Act issued at the address available in the assessee’s PAN database is valid and constitutes proper service, even if the assessee has subsequently changed its address but failed to update the same in the PAN or departmental database, and observed as under: -

“6.1 ... It appears that no application was made by the assessee to change the address in the PAN data base and in the PAN database the old address continued. Therefore, in absence of any intimation to the Assessing Officer with respect to change in address, the Assessing Officer was justified in issuing the notice at the address available as per the PAN database. Therefore, the Assessing Officer cannot be said to have committed any error and in fact the Assessing Officer was justified in sending the notice at the address as per the PAN database. ...”

13. Admittedly, in this case, the assessee has not made any application for change in address to the concerned Assessing Officer and therefore the jurisdictional Assessing Officer is justified in processing the return of income filed by the assessee based on his PAN database residential address.

14. The next submission made on behalf of the respondent herein/ Revenue is that the appellant herein/assessee did not raise any objection with regard to jurisdiction of the Assessing Officer till he files appeal before the ITAT. In this regard, Section 124(3)(a) of the IT Act may be noticed herein profitably, which states as under: -

“124. Jurisdiction of Assessing Officers.—(1) xxx xxx

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(2) xxx xxx xxx

(3) No person shall be entitled to call in question the jurisdiction of an Assessing Officer—

(a) where he has made a return under sub-section (1) of section 115WD or under sub-section (1) of section 139, after the expiry of one month from the date on which he was served with a notice under sub-section (1) of section 142 or sub-section (2) of section 115WE or sub-section (2) of section 143 or after the completion of the assessment, whichever is earlier;

xxx xxx xxx”

15. A careful perusal of Section 124(3)(a) of the IT Act would show that the assessee cannot question the jurisdiction of an Assessing Officer beyond the period of one month from the date of service of notice or after completion of the assessment, whichever is earlier. As such, Section 124(3) stipulates a bar to any contention about lack of jurisdiction of an Assessing Officer.

16. The Supreme Court in the matter of **Seth Teomal v. Commissioner of Income-tax and another**⁶ has considered the similar provisions as they existed under the Income Tax Act, 1922 in the light of its earlier pronouncement and of the Federal Court. Heading of Section 64 of the old Income Tax Act was “place of assessment” and its third proviso reads as follows: -

“Provided further that if the place of assessment is called in question by an assessee the Income Tax Officer shall, if not satisfied with the correctness of the claim, refer the matter for determination under this sub-section before assessment is made.”

Thereafter, their Lordships considered and held at the end of para 7

6 AIR 1959 SC 742

as under: -

“Thus, under s. 64(3) the question of determination as to the place of assessment only arises if an objection is taken by the assessee and the Income Tax Officer has any doubts as to the matter. But the determination is to be by the Commissioner of Income Tax or the Central Board of Revenue. The Act does not ‘contemplate any other authority.’”

17. Section 124(4) of the IT Act provides that where an assessee calls in question the jurisdiction of an Assessing Officer, then the Assessing Officer shall, if not satisfied with the correctness of the claim, refer the matter for adjudication under sub-section (2) before the assessment is made to the Principal Director General or Director General or Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, as the Board by notification specifies. It necessarily excludes any other Court or authority. Complete machinery for determination of place of assessment or the authority for assessment is provided for under Section 124.
18. The scheme of the IT Act shows that no appeal in regard to the place of assessment is contemplated under the Act. Under Section 124 of the IT Act, a question as to the place of assessment, when it arises is determined by the Commissioner, by the Commissioners if more than one Commissioner is involved and then by the Board. The Supreme Court in **Seth Teomal** (supra) has quoted with approval a judgment of the Federal Court in the matter of **Wallace Bros. & Co. Ltd. v. CIT**⁷, the relevant extract of which is reproduced

⁷ [1945] 13 ITR 39 (FC)

herein-below: -

“16. The question then arises whether the objection as to the place of assessee i.e. by the Income Tax Officer of Calcutta could be challenged in appeal to the Appellate Assistant Commissioner and then before the Appellate Tribunal. In our opinion it could not be. The scheme of the Act shows that no appeal in regard to the objection to the place of assessment is contemplated under the Act. Under proviso (iii) of Section 64(3) of the Act a question as to the place of assessment, when it arises, is determined by the Commissioner. Any such order cannot be made a ground of appeal to the Appellate Assistant Commissioner under Section 30 of the Act which provides for appeals against orders of assessment and other orders enumerated in Section 30 but no appeals is there provided against orders made under Section 64(3). Similarly appeals to the Appellate Tribunal which lie under Section 33 of the Act also do not provide for any appeal on the question of the place of assessment. In *Wallace Brother case* [1945 FCR 65] at p. 79 Spens, C.J., after referring to Section 64(3) and the proviso thereto said:

“These provisions clearly indicate that the matter is more one of administrative convenience than of jurisdiction and in any event it is not one for adjudication by the Court. ... This confirms us in the view that the scheme of the Act does not contemplate an objection as to the place of assessment being raised on an appeal against the assessment after the assessment has been made. As we have already pointed out, the objection was not raised in the present case even before the Appellate Income Tax Officer but only before the Appellate Tribunal.”

There is nothing in the *Bidi Supply case* [1956 SCR 267] which in any way detracts from the efficacy of the decision of the Federal Court in *Wallace Brother case* [1945 FCR 65]. We have already said that *Bidi Supply case* [1956 SCR 267] deals with the vires of Section 5(7A).”

19. In view of the aforesaid decision of the Federal Court in **Wallace Bros. & Co. Ltd.** (supra) followed by their Lordships of the Supreme Court in **Seth Teomal** (supra), further followed by the Allahabad High Court in the matter of **Commissioner of**

Income-tax, Gorakhpur v. All India Children Care & Educational Development Society⁸, the ITAT has rightly declined to consider the question as to the place of assessment. Furthermore, the Supreme Court in the matter of **Deputy Commissioner of Income-tax (Exemption) v. Kalinga Institute of Industrial Technology**⁹ has clearly held that the assessee has to question the jurisdiction of the Assessing Officer under Section 124(3)(a) within the stipulated time of 30 days from the date of receipt of notice under Section 142(1) and thereafter, interfered with the order of the High Court holding as under: -

“1. The impugned order set asides the assessment for A.Y. 2014-2015 the ground that the jurisdictional officer had not adjudicated upon the returns. The jurisdiction had been changed after the returns were filed. However, the records also reveals that the assessee had participated pursuant to the notice issued under section 142(1) and had not questioned the jurisdiction of the assessing officer. Section 124(3)(a) of the Income-tax Act precludes the assessee from questioning the jurisdiction of the assessing officer, if he does not do so within 30 days of receipt of notice under section 142(1).”

20. The Delhi High Court in the matter of **Commissioner of Income Tax-III v. Shri Shyam Sunder Infrastructure (P) Ltd.**¹⁰ has held that facially, Section 124(3) of the IT Act stipulates a bar to any contention about lack of jurisdiction of an Assessing Officer, and observed as under: -

“5. ... Facially, Section 124(3) stipulates a bar to any contention about lack of jurisdiction of an AO. It is not as if the provisions of the Act disable an assessee from contending that in the given circumstances the AO lacks jurisdiction;

8 [2013] 357 ITR 134 (Allahabad)

9 [2023] 454 ITR 582 (SC)

10 2015 SCC OnLine Del 7040

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rather Section 124(3) limits the availability of those options at the threshold. The assessee upon receipt of notice of the kind mentioned in Clause (a) and (b) of sub-section 3 has the option to urge the question of jurisdiction; the expressed tenor and terms of the provisions clarify that such objections are to be articulated at the threshold or at the earlier points of time. The two points of time specified in Section 124(3)(a) are as under:

(i) Within one month from the date of service of notice or;

(ii) After completion of assessment - whichever is earlier.”

21. As such, from the aforesaid discussion, it is quite vivid that the appellant/assessee was served with notice under Section 143(2) of the IT Act on 8-8-2013, which was served upon him on 21-8-2013 and he did not raise objection qua jurisdiction of the Assessing Officer till his appeal was decided by the CIT (Appeals) on 14-7-2016. The assessee also did not raise any objection regarding jurisdiction upon completion of his assessment. As such, the plea with regard to territorial jurisdiction of the ITO was barred by virtue of Section 124(3)(a) of the IT Act. Even otherwise, by the notification dated 15-11-2014, the territorial reallocation of wards at Raipur was undertaken and thus by operation of law, validly, the ITO, Ward-2(1), Raipur has been conferred with the jurisdiction after reallocation of wards. Therefore, the ITAT is absolutely justified in not entertaining the question with regard to jurisdiction of the AO.

22. The decisions relied upon by learned counsel for the appellant herein/assessee in **Kanwar Singh Saini** (supra), **Rajeev Bansal's** case (supra), **Cosmat Traders (P.) Ltd.'s** case (supra)

and **Lalitkumar Bardia's** case (supra) are clearly distinguishable in view of the aforesaid conclusion reached herein-above.

23. For the foregoing reasons, the substantial question of law is answered against the assessee and in favour of the Revenue. Accordingly, we do not find any merit in this appeal, it deserves to be and is hereby dismissed leaving the parties to bear their own cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

Sd/-
(Radhakishan Agrawal)
Judge