



2026:CGHC:16134

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPT No. 221 of 2022

- Ravi Kumar Nagdeo S/o Late Shri Radhamal Nagdeo Aged About 56 Years
R/o Opposite Jagdish Lagde Sadar Bazar, Bilaspur, Chhattisgarh, Pin-
495001

... Petitioner

versus

1. Union Of India Through Secretary Ministry Of Finance, Department Of Revenue, North Block, New Delhi- 110001, India.
2. Income Tax Officer Ward- 1(1), Bilaspur, Office Of The Income Tax Officer Ward -1 (1), Bilaspur, Aayakar Bhawan, Vyapar Vihar, Bilaspur, Chhattisgarh- 495001, India
3. Principal Commissioner Of Income-Tax, Raipur- 1 Office Of The Principal Commissioner Of Income-Tax, Raipur- 1, Central Revenue Building Civil Lines, Raipur, Chhattisgarh- 492001, India.
4. Additional/joint/assistant Commissioner Of Income Tax/income Tax Officer National Faceless Assessment Centre, Delhi, India

... Respondent(s)

For Petitioner	:	Mr. Siddharth Dubey, Advocate
For U.O.I./Respondent No. 1	:	Mr. Ramakant Mishra, Dy. S.G. along with Mr. Abhishek Banjare, C.G.C.
For Respondents No. 2 to 4	:	Mr. Ajay Kumrani, Advocate holding the brief of Mr. Amit Chaudhari, Advocate

Hon'ble Shri Justice Rakesh Mohan Pandey

Order on Board

08.04.2026

1. By way of this petition, the petitioner has sought the following relief(s):-

*“10A.1 Quashing /setting aside Annexure "P/1".
Annexure "P/3"(Colly), Annexure "P/5" (Colly),
Annexure "P/6"*



10A.2 Any other relief(s) that this Hon'ble Court may deem fit in facts and circumstances of the case.

10. B INTERIM RELIEF(S) PRAYED: -

10B.1 Calling for the entire records of the present matter.

10B.2 Staying effect and operation of Annexure "P/1", Annexure "P/3" (Colly), Annexure "P/5" (Colly), Annexure "P/6" till the disposal of the present petition.

10B.3 Any other interim relief(s) that this Hon'ble Court may deem fit in facts and circumstances of the case."

2. Mr. Dubey would submit that a notice under Section 148 of Income Tax Act, 1961 was issued to the petitioner after cut-off date i.e. 01.04.2021, therefore, the respondent authorities were under obligation to conduct a proceeding according to the provisions of Section 148A of the Income Tax Act, 1961 (for short "Act, 1961"). He has placed reliance on the judgment passed by the High Court of Delhi in the matter of ***Suman Jeet Agrawal vs. Income-tax Officer*** reported in ***[2022] 143 taxmann.com 11 (Delhi)***.
3. On the other hand, learned counsel appearing for respondents No. 2 to 4 would submit that notice under Section 148 of Act, 1961 was dispatched on 31st of March, 2021, and therefore, there was no need to conduct a proceeding according to the provisions of Section 148A of the Act, 1961.
4. I have heard learned counsel for the parties and perused the documents placed on record.
5. Perusal of screen shot of Income Tax Business Application (ITBA) portal would reveal that notice was issued on 01.04.2021 at 12:19:37 hour, and



thus, it was issued after cut-off date, and therefore, the respondent authorities are required to conduct a proceeding according to the provisions of Section 148A of the Act, 1961.

6. The High Court of Delhi in the matter of *Suman Jeet Agrawal* (supra) while dealing with the similar issue in para 25.1 to 25.13, 26.20 and 26.23 held has under :-

25.1 It has emerged as an admitted position on facts, that the e-mails attaching the impugned Notices dated 31st March, 2021, were despatched by the ITBA servers on 01st April, 2021, or thereafter.

25.2 Faced with the aforesaid factual position, it has been contended by the Department that since generation of impugned Notices on the ITBA portal on 31st March, 2021, is undisputed, the singular act of generation of Notice by JAO satisfies the requirement of issued for the purpose of section 149 of the Act of 1961 and despatch of the Notice on 31st March, 2021 is not a mandatory requirement.

25.3 The Department contends that since each of the impugned Notices bear a DIN, its generation as on 31st March, 2021, is beyond doubt. It is further contended that since, on the ITBA portal, after generation of Notice the JAO is left with no power to amend, alter, cancel or ante-date the Notice, the said act of generation conclusively establishes that the Notice has been issued.

25.4 The petitioners as noted above have opposed this contention of the Department as being contrary to settled law interpreting the expression 'issued', 'shall be issued and the dictionary meaning of the phrase 'issue'. It is contended that under the Act of 1961, a Notice is held to be 'issued on the date of its due despatch and not on the date the notice is drawn up.

25.5 It would be useful to refer to the judgments relied upon by the petitioners, which clearly bring out that for an authority to contend that a Notice has been issued, the same must be duly despatched by the issuing authority. The first instructive judgment on this point is Delhi Development Authority (supra) at paragraphs 5, 13 and 15, which reads as under:

‘...’

5. The substituted clause (ii) in para 2, in O.M. dated



September 14, 1992, is as under:

"(ii) Government servants in respect of whom a charge-sheet has been issued and the disciplinary proceedings are pending; and"

...

13.... The context in which the word 'Issued' has been used, merely means that the decision to initiate disciplinary proceedings is taken and translated into action by despatch of the charge-sheet leaving no doubt that the decision had been taken. The contrary view would defeat the object by enabling the government servant, if so inclined, to evade service and thereby frustrate the decision and get promotion in spite of that decision. Obviously, the contrary view cannot be taken.

...

15. The meaning of the word 'issued', on which considerable stress was laid by learned counsel for the respondent, has to be gathered from the context in which it is used. Meanings of the word 'issue' given in the Shorter Oxford English Dictionary include: 'to give exit to; to send forth, or allow to pass out; to let out; ... to give or send out authoritatively or officially; to send forth or deal out formally or publicly; to emit, put into circulation'. The issue of a charge-sheet, therefore, means its despatch to the government servant, and this act is complete the moment steps are taken for the purpose, by framing the charge-sheet and despatching it to the government servant, the further fact of its actual service on the government servant not being a necessary part of its requirement.

(Emphasis Supplied)

In the aforesaid judgment the Supreme Court emphatically laid down that despatch is an essential condition to complete the act of issuance. The Court clarified that service on the recipient was not a condition precedent for satisfying the act of issuance.

25.6 It would also be useful to refer to the judgment of the Supreme Court in the case of R.K. Upadhyaya (supra). In the said case, the Supreme Court was concerned with the controversy of the validity of a notice with reference to sections 148 and 149 of the Act of 1961. In the said case, the notice under section 148 of the Act of 1961, was despatched by registered post on 31st March, 1970, but the same was received by the assessee on 03rd April, 1970; and therefore, the Gujarat High Court after observing that the expression "issued and 'served' in sections 148 and 149 have the same meaning, held that the notice was time barred. In appeal, the Supreme Court after taking note that the Notice was despatched by registered post on 31st March, 1970, set aside the judgment of the High Court. The Supreme Court held that the service of notice is not a condition precedent for satisfying the condition of "issued". The date of despatch of the notice was taken



into consideration by the Supreme Court as the relevant date for determining that the notice has been validly issued for the purpose of section 149 of the Act of 1961. The date of notice is discernible from the judgment of High Court¹.

25.7. The contention of the Department that since the impugned Notices were generated and digitally signed on 31st March, 2021, the same should be considered as the date of issue, notwithstanding the fact that the same had not been despatched, was categorically rejected by the Madras High Court in Smt. Parveen Amin Bhathara (supra) following the judgment of Gujarat High Court in Kanubhai M. Patel (HUF) (supra). The Gujarat High Court, dealing with a notice issued in paper form, at paragraphs 13 and 16 observed as under:

“....

13.... Whereas, on behalf of the revenue, it has been contended that the notices were actually signed on 31-3-2010, hence, the said date would be the date of issue and as such, the impugned notices have been issued within the time limit prescribed under section 149 of the Act.

16. Thus, the expression to issue in the context of issuance of notices, writs and process, has been attributed the meaning, to send out; to place in the hands of the proper officer for service. The expression "shall be issued" as used in section 149 would therefore have to be read in the aforesaid context. In the present case, the impugned notices have been signed on 31-3-2010, whereas the same were sent to the speed post centre for booking only on 7-4-2010. Considering the definition of the word issue, it is apparent that merely signing the notices on 31-3-2010, cannot be equated with issuance of notice as contemplated under section 149 of the Act. The date of issue would be the date on which the same were handed over for service to the proper officer, which in the facts of the present case would be the date on which the said notices were actually handed over to the post office for the purpose of booking for the purpose of effecting service on the petitioners. Till the point of time the envelopes are properly stamped with adequate value of postal stamps, it cannot be stated that the process of issue is complete. In the facts of the present case, the impugned notices having been sent for booking to the Speed Post Centre only on 7-4-2010, the date of issue of the said notices would be 7-4-2010 and not 31-3-2010, as contended on behalf of the revenue. In the circumstances, impugned the notices under section 148 in relation to assessment year 2003-04, having been issued on 7-4-2010 which is clearly beyond the period of six years from the end of the relevant assessment year, are clearly barred by limitation and as such, cannot be sustained.

....”

Supplied)

(Emphasis



The Gujarat High Court categorically held that it is on the date of despatch of the section 148 notice that the same will be held to be issued for the purpose of section 149 of the Act of 1961.

25.8. The Madras High Court in Smt. Parveen Amin Bhathara (supra), after approving the dicta of Kanubhai Patel (supra) and considering section 282 of the Act of 1961 and rule 127 of IT Rules, held as under:

“....

8. In the present case, the respondent reopened the assessment of the appellant for the assessment year 2011-12, through notice dated 31-3-2018 under section 148 of the Act. Admittedly, the limitation period of six years for reopening the assessment, came to an end on 31-3-2018. The main plank of contention of the learned counsel for the appellant is that the notice under section 148 of the Act dated 31-3-2018 has been received by the appellant through e-mail only on 18-4-2018 i.e, after the expiry of six years from the end of the assessment year under consideration and hence, the same is clearly barred by limitation, whereas the Department contended that mere signing of notice by the respondent on 31-3-2018 amounts to issuance of notice under section 149 of the Act and therefore, the same is within the limitation period.

12. In Kanubhai M. Patel v. Hiren Bhatt and others ((2011) 334 ITR 25 (Guj)), it was held by the Gujarat High Court that "date of issuance of notice under section 148 Income-tax Act has to be reckoned not from the date when it was issued, but on the date when it was actually delivered on the assessee.

....

Thus, it is apparent from the aforesaid decisions that the issuance of notice under section 149 is complete only when the same is issued in the id decisions that bed under section 282 r/w rule 127 of the Income-tax Rules prescribing the mode of service of notice under the Act. The signing of notice would not amount to issuance of notice as contemplated under section 149 of the Act. In other words, the requirement of issuance of notice under section 149 is not mere signing of the notice under section 148, but is sent to the proper person within the end of the relevant assessment year.

....”
Supplied)

(Emphasis

In the said judgment the Division Bench of the Madras High Court categorically rejected the submission of the Department that signing of Notice, without despatch, would amount to issuance of Notice as contemplated under section 149 of the Act of 1961.



25.9 The Madhya Pradesh High Court in Yuvraj (supra) similarly dealt with a case of a Section 148 Notice dated 31st March, 2021, which was sent by e-mail to the assessee on 16th April, 2021. The High Court held that the Notice was issued on 16th April, 2021 and quashed the same reserving liberty to the Department to issue a fresh Notice under section 148A of the Act of 1961, in accordance with law. The grounds for challenging the impugned Notice in the said case were same as have been raised herein for challenging the impugned Notices falling under category 'A' and 'B'.

25.10. The judgment of the Allahabad High Court in Daujee Abhusan Bhandar (supra), was earliest to hold that drawing up a Notice on 31st March, 2021, and digitally signing the same, in the absence of despatch, does not amount to issuance of Notice within the meaning of section 149 of the Act of 1961. The High Court after elaborately discussing the provisions of sections 282 and 282A of the Act of 1961, and the provisions of section 13 of the Act of 2000, held that, since the impugned Notice therein though dated 31st March, 2021, was issued through e-mail on 06th April, 2021, the same was time barred and therefore liable to be quashed. The Court at paragraph 29 and 30 held as under:

“....

29. Thus, considering the provisions of sections 282 and 282A of the Act, 1961 and the provisions of section 13 of the Act, 2000 and meaning of the word "issue" we find that firstly notice shall be signed by the assessing authority and then it has to be issued either in paper form or be communicated in electronic form by delivering or transmitting the copy thereof to the person therein named by modes provided in section 282 which includes transmitting in the form of electronic record. Section 13(1) of the Act, 2000 provides that unless otherwise agreed, the despatch of an electronic record occurs when it enters into computer resources outside the control of the originator. Thus, the point of time when a digitally signed notice in the form of electronic record is entered in computer resources outside the control of the originator i.e. the assessing authority that shall the date and time of issuance of notice under section 148 read with section 149 of the Act, 1961.

30. In view of the discussion made above, we hold that mere digitally signing the notice is not the Issuance of notice. Since the impugned notice under section 148 of the Act, 1961 was issued to the petitioner on 6-4-2021 through e-mail, therefore, we hold that the impugned notice under section 148 of the Act, 1961 is time barred. Consequently, the impugned notice is quashed.

....”
Supplied)

(Emphasis



25.11 In the subsequent judgments of the Allahabad High Court in the case of Santosh Krishna HUF (supro) and Mohan Lal Santwani (supra) the High Court summoned the details of date and time of triggering of e-mail by the ITBA e-mail software system to determine the date of issuance of the e-mail attaching the Notice. The High Court held the said date of triggering of e-mail to be the date of issue of Section 148 Notice for the purpose of section 149 of the Act of 1961.

25.12 The review of the aforesaid judgments of the Supreme Court and the several High Courts shows that all Courts have consistently held that the expression 'issue' in its common parlance and its legal interpretation means that the issuer of the notice must after drawing up the notice and signing the notice, make an overt act to ensure due despatch of the notice to the addressee. It is only upon due despatch, that the notice can be said to have been issued.

25.13 Further, a perusal of the Compliance Affidavit reveals that while the function of generation of Notice on ITBA portal and digital signing of the Notice is executed by the JAO, the function of drafting of the e-mail to which the Notice is attached and triggering the e-mail to the assessee is performed by the IIBA e-mail software system.

Thus, mere generation of Notice on the ITBA Screen cannot in fact or in law constitute issue of notice, whether the notice is issued in paper form or electronic form. In case of paper form, the notice must be despatched by post on or before 31st March 2021 and for communication in electronic form the e-mail should have been despatched on or before 31st March 2021.

In the present writ petitions, the despatch by post and e-mail was carried out on or after 01st April 2021 and therefore, we hold that, the impugned Notices were not issued on 31st March 2021.

26.20 We are in respectful agreement with the law laid down by the various High Courts in Dajjee Abhushan (supra), Santosh Krishna HUF (supra), Mohan Lal Santwani (supra), Advance Infradevelopers (P) Lad. (supra) and Yuvraj (supra), that for determining when Notices were issued, the date and time of when the ITBA e-mail software system is triggered and the Notices leave the last ITBA server would be considered.

26.23 We also take judicial notice of the fact that the Department from May, 2022, for Notices issued on or after 1st April 2021, has considered the date and time of despatch of the notices as recorded by the ITBA portal as the date of issuance and disregarded the date of generation of notice Le. 31-3-2021. For notices despatched on or after 1st April 2021, the Department, following the Supreme Court's order in Ashish Agarwal (supra) considered the notices as issued under section 148A of the Act of 1961. This shows that the Department itself acknowledges and admits that the date of generation is distinct from date of issuance and the Department



considers the despatch by ITBA Portal as the date of issue for the purpose of Section 149 of the Act of 1961.

Finding for Notices falling under category 'C'

Since the time taken by the ITBA email software system in triggering the e-mails is attributable to the Department, the AO is directed to determine the date and time on which the emails were triggered by the ITBA system server as per the ITBA records and consider the same as the date of issuance.

Illustratively, in W.P.(C) 8994 of 2021 for the Notice dated 31st March 2021 and digitally signed on 31st March 2021 the JAO is directed to determine the date and time of despatch as recorded by ITBA portal and consider the same as the date of issuance.

7. Taking into consideration the above-discussed facts and law enunciated in the matter of *Suman Jeet Agrawal* (supra), I am inclined to allow this petition. The impugned notice dated 31.03.2021(Annexure P/1) including re-assessment order dated 30.03.2022 (Annexure P/6) are hereby **quashed**. The respondent authorities would be at liberty to initiate a fresh proceeding in accordance with the provisions of Section 148A of Income Tax Act, 1961.
8. The issue of limitation would not come in the way of conducting proceeding.

Sd/-
(Rakesh Mohan Pandey)
JUDGE