

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.2713 OF 2024

Ambernath City Hospital Pvt.Ltd.

.. Petitioner

Versus

The Union of India and Ors.

.. Respondents

**Mr.Bharat Raichandani a/w Ms.Bhagrati Sahu i/b M/s.UBR Legal
Advocates, Advocates for the Petitioner.**

Mr.Akhileshwar Sharma, Advocate for the Respondents.

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**CORAM: B. P. COLABAWALLA &
FIRDOSH P. POONIWALLA, JJ.**

DATE: JANUARY 6, 2026

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1. The above Writ Petition is filed seeking to challenge the Notice dated 31st March 2021 issued under Section 148 of the Income Tax Act, 1961 (for short “**the I.T.Act**”) as well as the subsequent ex-parte Assessment Order dated 19th March 2022 passed under Section 147 of the I.T. Act. In addition thereto, the Penalty Order dated 22nd September 2022 and the Notice of Demand of the very same date issued under Section 156 of the I.T. Act, are also challenged. Additionally, the Order dated 23rd September 2022 passed under Section 271 (1)(c) of the I.T. Act and the Notice of Demand of the very

same date are also impugned. The only ground of challenge is that the Notice issued under Section 148 is an unsigned document, and therefore, is an invalid Notice. If the Notice itself is invalid, all proceedings and actions taken pursuant to the said Notice, also have to go, is the argument of the Petitioner.

2. In support of the proposition that the Notice issued under Section 148 is invalid because it is unsigned, the learned Advocate appearing on behalf of the Petitioner placed reliance on the decision of this Court in the case of *Prakash Krishnavtar Bhardwaj vs. Income Tax Officer, ward 2(1) and Ors. [Writ Petition No.9835 of 2022 decided on 9th January 2023]*.

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 vs. Assistant Commissioner of Income-tax, Circle-52(1) [2018] 97 taxmann.com 150 (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. 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. 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.

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.*
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.

6. Having said this, it would only be fair to deal with the decision of the Hon'ble Delhi High Court in the case of *Sonia Gandhi (Supra)*, and which was relied upon by the Revenue. On carefully perusing the aforesaid decision, we find that the aforesaid decision does not in any way support the case of the Revenue. The argument of the Petitioner before the Delhi High Court was that a proper and valid Notice under Section 148, with the Assessing Officer's digital signature, was not issued before limitation set in at midnight on 31st March 2018. Furthermore, it was the case of the Petitioner therein that the Notices were issued hastily through an email process for the reassessment of the relevant period, and this reflects malafides. The submission was that the speed post communication with notice, later, was of a copy; the proper email communication with a scanned copy of the

intimation, in the relevant form was also received later. It was this argument of the Petitioner that was negated by the Delhi High Court in paragraph 52 and 53 of the decision. We find that the reliance placed on this decision of the Delhi High Court is wholly misplaced, as that was not a case where there was no signature on the Notice issued under Section 148.

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. 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.

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.

9. In view of the foregoing discussion, the above Petition succeeds and is allowed in terms of prayer clause (a) which reads thus:

“(a) that this Hon'ble Court be pleased to issue a Writ of Certiorari or a writ in the nature of Certiorari or any other writ, order or direction

Page 7 of 8

JANUARY 6, 2026

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under Article 226 of the Constitution of India quashing the impugned unauthenticated Notice No. ITBA/AST/S/148/2020-21/1031991834(1) dated 31.03.2021 under Section 148 of the Income Tax Act, 1961 from the Respondents regarding non-filing of tax return Assessment Year (hereinafter referred to as "A.Y") 2014-15 (Exhibit A1), subsequent ex-parte Assessment Order dated 19.03.2022 under Section 147 of the Income Tax Act, 1961 (Exhibit A2), Penalty proceedings held by the Respondents including the Order dated 22.09.2022 under Section 271(1)(b) of the Income Tax Act, 1961 and the Notice of demand dated 22.09.2022 under Section 156 of the Income Tax Act, 1961 (Exhibit A5-colly.), Order dated 23.09.2022 under Section 271(1)(c) of the Income Tax Act, 1961 & Notice of demand dated 23.09.2022 under Section 156 of the Income Tax Act, 1961 (Exhibit A7-colly.)."

10. 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.

11. 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.]