

Failure of AO to furnish acknowledgement of service of notice leads to quashing of assessment

Summary – The Guwahati ITAT in a recent case of Meghalaya Fusions Ltd., (the Assessee) held that where Assessing Officer had failed to produce any evidence regarding issuance and service of notice under section 143(2) to/upon assessee, assessment order passed by Assessing Officer was bad in law

Facts

- Assessee-company filed its return declaring *Nil* income.
- The Assessing Officer made assessment under section 144 determining certain income.
- On appeal, the assessee challenged assessment order on ground that notice under section 143(2) was not served upon it.
- The Assessing Officer contended that notice under section 143(2) was sent by registered post. The FAA directed the Assessing Officer to produce postal receipt of the registered letter but the Assessing Officer could not produce same. The FAA held that there had been no valid service of the notice claimed to have been issued under section 143(2) to the assessee and, therefore, assessment proceedings resulting in the impugned order were bad in law.
- On revenue's appeal:

Held

- The FAA had specifically directed the Assessing Officer to place on record the acknowledgement of service of notice that was issued during the course of assessment proceedings. The FAA has given a categorical finding of fact that the Assessing Officer had failed to produce any evidence regarding the issuance of notice or service of said notice. Notice of hearing should not only be issued properly but it has to be served upon the assessee and the proof of service has to be placed on record. In the case under consideration, the Assessing Officer has not produced any evidence as required by the FAA. Therefore, assessment order passed by the Assessing Officer was bad in law. There is no legal infirmity in the order passed by the FAA.