

IN THE INCOME TAX APPELATE TRIBUNAL
DELHI BENCH "E": NEW DELHI
BEFORE SHRI MAHAVIR SINGH, HON'BLE VICE PRESIDENT
AND
SHRI M. BALAGANESH, HON'BLE ACCOUNTANT MEMBER

ITA No. 4579/Del/2024
A.Y. : 2012-13

NAVYUG TECHNOLOGIES PRIVATE LIMITED, VS. ITO, WARD 18(2), 309, ADARSH COMPLEX, COMMUNITY CENTRE, WAZIRPUR, INDUSTRIAL AREA, NEW DELHI – 110 052 (PAN: AACCN4336K) (Appellant)	NEW DELHI C.R. BLDG., I.P. ESTATE. NEW DELHI – 2 (Respondent)
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Assessee by	:	Sh. Salil Kapoor, Adv., Ms. Ananya Kapoor, Adv., Sh. Sumit Lalchandani, Adv., Sh. Shivam Yadav, Adv. & Ms. Sejal Arora, Adv.
Department by	:	Ms. Ankush Kalra, Sr. DR.

Date of Hearing	16.02.2026
Date of Pronouncement	16.02.2026

ORDER

PER MAHAVIR SINGH, VP:

This appeal by the assessee is emanating from the order of the Ld. National Faceless Appeal Centre (NFAC), Delhi in Appeal No. CIT(A), Delhi-6/10768/2019-20 dated 2.8.2024. Assessment was framed by the ITO, Ward 18(2), New Delhi u/s. 143(3)/147 of the Act on 19.2.2019 relevant to assessment year 2012-13.

2. Assessee's AR filed Application dated 4.2.2026 which has been placed on record, requesting for admission of following additional legal ground in the instant matter which is purely legal and goes to the root of the matter and needs to be admitted, on the anvil of the decision of the Hon'ble Apex Court in the case of National Thermal Power Co. Ltd. vs. CIT reported in 229 ITR 383 (SC).

“Ground No. 7 :

That, the assessment order passed under section 147/143(3) of the Income Tax Act, 1961 dated 19.12.2019 is illegal, bad in law and without prejudice as the same is passed in violation of CBDT Instruction No. 1/2018 [F.No. 225/157/2017-ITA.II]. dated 12.2.2018 and as such the said assessment order is liable to be quashed.”

3. We have heard both the parties at length and perused their respective submissions alongwith the case file. We find force in the contention of the Ld. AR that the relevant facts are already on record and no new fact is required to be investigated and also the above mentioned additional ground goes to the root of the matter. Therefore, on the anvil of the decision of the Hon'ble Apex Court in the case of National Thermal Power Co. Ltd. vs. CIT reported in 229 ITR 383 (SC), we admit the aforesaid additional ground and adjudicating the same in the foregoing paragraphs.

4. At the outset, Ld. Counsel for the assessee drew our attention towards the notice issued by the Assessing Officer u/s. 142(1) of the Act dated 26.8.2019 and pointed out that this scrutiny assessment was conducted via online in e-processing facility available through the website of the Income Tax Department. He further drew our attention to the assessment order and particularly pointed out that the assessment order dated 19.12.2019 has been signed and issued manually, which is in violation

of CBDT Instruction No. 1/2018 [F.No. 225/157/2017-ITA.II) dated 12.2.2018. Ld. Counsel for the assessee further stated that exactly similar issue has been dealt by the Coordinate Bench of the Delhi Tribunal in the case of Outsystems Singapore Pte. Ltd. vs. DCIT, Circle International Tax 2(2)(2), Delhi in ITA NO. 1601/Del/2025 (AY 2022-23) wherein, it has been held as under:-

“7. We have heard the submissions made by rival sides and have examined the orders of authorities below. We have also considered the decisions on which respective sides have placed reliance in support of their arguments. Before proceeding to decide merits of the addition, the legal issue raised by the assessee in ground of appeal no.3 challenging validity of the Final Assessment Order in signing the order manually is taken up first for adjudication. A perusal of the impugned order reveals that the assessment order has been signed manually by the Assessing Officer. The assessment has been made under ‘E-Proceedings’. The Board vide Notification No. 01/2018 dated 12.02.2018 has notified that all assessment proceedings in scrutiny cases are to be conducted electronically. The said instructions are reproduced herein below:

“SECTION 143, READ WITH SECTIONS 142 & 2(23C), OF THE INCOME-TAX ACT, 1961 - ASSESSMENT - CONDUCT OF ASSESSMENT PROCEEDINGS IN SCRUTINY CASES ELECTRONICALLY

INSTRUCTION NO.1/2018 [F.NO.225/157/2017-ITA.II], DATED 12-2-2018

Sub-section (23C) of Section 2 of the Income-tax Act, 1961 (Act), applicable from 1-6-2016, provides that "hearing" includes communication of data and documents through electronic mode. Accordingly to facilitate conduct of assessment proceedings electronically, vide letter dated 23-6-2017, in file of even number, Board had issued a revised format of notice(s) under section 143(2) of the Act. Para 3 of these notice(s) provided that assessment proceedings in

cases selected for scrutiny would be conducted electronically in 'E-Proceeding' facility through assessee's account in E-filing website of Income-tax Department.

2. In accordance with the procedure outlined in revised 143(2) notice(s) for conduct of assessment proceedings electronically, it is hereby directed that except for search related assessments, proceedings in other pending scrutiny assessment cases shall be conducted only through the 'E-Proceeding' functionality in ITBA/E-filing. However, in cases where the concerned assessee objects to conduct of assessment proceedings electronically through the 'E-Proceeding' facility, such cases, for the time-being, may be kept on hold.

3. Further, considering the situation that some of the stations have limited bandwidth, being VSAT stations and stations with limited capacity where bandwidth is in the process of being upgraded, it has been decided that till 31-3-2018, such stations, in accordance with target stipulated in Central Action Plan for financial year 2017-18, may undertake and complete only ten percent scrutiny cases (which are getting barred by limitation on 31-12-2018) having the potential to effect recovery during the current year itself. The list of such stations shall be specified by the Pr. DGIT(Systems). Accordingly, at these stations, till 31-3-2018, the assessment proceedings in cases to be completed as per Central Action Plan target, may be conducted manually if e-assessment is not possible. It is reiterated that at other stations covered under para 2 above, subject to exceptions mentioned therein, the assessments would be conducted electronically only.

4. Some of the important procedural aspects while conducting assessment proceedings through 'E-Proceeding' are as under:

4.1 Enquiry before assessment in electronic mode : For enquiries before assessment in terms of section 142(1)(ii) of the Act, notice shall be issued electronically and delivered upon the assessee in his 'E-Filing' account. While filing the response electronically in compliance with notice under section 142(1)(ii) of the Act, the concerned assessee shall verify it in the manner prescribed under rule 14 of Income-tax Rules, 1962.

4.2 Use of digital signature by Assessing Officer: All departmental orders/communications/notices being issued to the assessee through the 'e-Proceeding' facility are to be signed digitally by the Assessing Officer.

4.3 Time for compliance : Online submissions may be filed till the office hours on the date stipulated for compliance.

4.4 Availability of facility for electronic submission of documents in time barring situation or where case has been finally heard by the Assessing Officer: The facility for electronic submission of documents through 'E Proceeding' shall be automatically closed seven days before the time barring date. In other situations, upon completion of proceedings, before passing the final order, concerned

Assessing Officer, on his volition, shall close the e-submission facility after mentioning in electronic order sheet that 'hearing has been concluded'. However, if required, in exceptional circumstances, the concerned Assessing Officer may enable further filing of submissions electronically under intimation to the Range Head in ITBA.

4.5 In assessment proceedings being carried out through the 'E-Proceeding' facility, a particular proceeding may take place manually in following situation(s):

i. where manual books of account or original documents have to be examined;

ii. where Assessing Officer invokes provisions of section 131 of the Act or a notice is issued for carrying out third party enquiries/investigations;

iii. where examination of witness is required to be made by the concerned assessee or the Department;

iv. where a show-cause notice contemplating any adverse view is issued by the Assessing Officer and assessee requests for personal hearing to explain the matter.

4.6 Maintenance of 'Record' in the context of 'E-Proceeding': In cases being assessed through 'E-Proceeding', from now on, as far as possible, case-records as well as note sheet of proceedings shall be maintained electronically.

5. This instruction may be brought to the notice of all concerned for immediate compliance."

8. A perusal of para 4.2 of the aforesaid instructions would show that communication of all documents including orders, notices, etc. issued to the assessee through 'E-Proceeding' facility are to be signed digitally by the Assessing Officer. No exception has been provided in the said instructions for signing the assessment orders manually. During the course of hearing, the Id. DR sought time to furnish copy of the exceptions, if any. The time sought by the DR was allowed. However, on the next date of hearing no such instructions were furnished and the Id. DR expressed her inability to lay hands on any such instructions carving out exceptions. In the absence of any exceptions, all assessment orders in 'E-Proceedings' have to be

necessary signed digitally. The instructions dated 12.02.2018 issued by the Board would apply to all assessments made electronically. The Id. DR has placed on record the reasons given by the AO for signing the order manually. The relevant excerpts from the same are reproduced herein under:

“In this regard, it is submitted that the date of limitation for passing the assessment order in this case was 31.01.2025 pursuant to the directions of the Hon'ble DRP. The assessment order for AY 2022-23 was passed and sent to CP for final accounting. However, CPC had not closed the accounting of the same and the assessment order along with computation sheet and demand notice had not come back from the CPC for being digitally signed and issued to the assessee (grievance had been raised on the TBA Helpdesk for the same. Since the charge of Circle 2(2)(2) was being transferred with effect from 13.01.2025 on account of the undersigned proceeding on earned leave and since the new incumbent officer would not be able to sign the order on a later date, the assessment order in this case was passed and signed manually by the undersigned on 10.01.2025 and sent to the assessee on the same date.”

9. Since CBDT Instructions No. 1/2018 (supra) requires the Assessing Officer to sign assessment order digitally where the assessments are completed through 'E-Proceedings' facility, the assessment order would stand valid only if it is passed in accordance with the CBDT Instructions. No exception has been provided by the Board to the said conditions.

10. The Hon'ble Supreme Court of India in the case of Cherukuri Mani v. Chief Secretary, Government of Andhra Pradesh (2015) 13 SSC 722 has held that any deviation in the procedure prescribed by the statute renders the action illegal. The Hon'ble Apex Court in the case of Chandra Kishore Jha vs Mahavir Prasad (1999) 8 SCC 266 held that, if statute provides for a thing to

be done in a particular manner, then it has to be done in that manner and in no other manner. The CBDT has laid down procedure for completing 'E-Proceedings' in a particular manner, the same are binding on the Department. The AO is thus mandatorily required to sign the assessment order digitally where the scrutiny assessments are conducted electronically. Since, in the instant case the assessment has been made under 'E-Proceedings and assessment order has been signed manually, the same suffers from incurable defect, if, the assessment order has been served on the assessee. The reliance placed by the Revenue on the decision in the case of Mytheenkunju Muhammed Kunju Kandathil Jewellers vs. DCIT (supra) does not support the cause of Revenue as the same was passed in peculiar set of facts and hence, is distinguishable. Thus, the assessment order is liable to be quashed on this ground alone."

5. The aforesaid facts were confronted to Ld. Sr. DR, but he could not controvert the above fact situation.

6. After hearing the rival contentions and gone through the facts of the case, we noted that in terms of the e-proceedings procedure laid down by the CBDT, the Assessing Officer is manually required to sign the assessment order digitally where scrutiny assessment is conducted electronically. Since in the instant case the assessment has been made under e-proceedings facility, however, the assessment order has been signed manually, which vitiates the assessment on this ground.

7. In view of the aforesaid factual matrix and respectfully, following the aforesaid Coordinate Bench decision in the case of

Outsystems Singapore Pte. Ltd. vs. DCIT, Circle International Tax 2(2)(2), Delhi in ITA NO. 1601/Del/2025 (AY 2022-23) dated 10.12.2025, we quash the assessment and allow the additional ground raised by the assessee.

8. Since we have already quashed the assessment on the legal ground, the other grounds have become academic, hence, need not be adjudicated.

9. In the result, the Assessee's appeal is allowed in the above terms.

Order pronounced in the Open Court on 16.02.2026.

Sd/-

Sd/-

(M. BALAGANESH)
ACCOUNTANT MEMBER

(MAHAVIR SINGH)
VICE PRESIDENT

SRBhatnagar

Date: 19-2-2026

Copy forwarded to: -

1. Appellant
2. Respondent
3. DIT
4. CIT (A)
5. DR, ITAT

Assistant Registrar, ITAT,
Delhi Benches