03.11.2026

Supreme Court recently decided a case where IT did not serve scrutiny notice under Section 143/2 but took a stand that the assessee appeared in the proceedings. Hence the scrutiny notice was not necessary. But the Supreme Court rules that scrutiny notice 143/2 has a statutory purpose namely it gives an opportunity to the assessee to submit his say on the intended action. Hence on this ground SC in its 28th October, 2026 judgement

According to the Supreme Court, Section 292BB is a deeming provision. If an assessee cooperated with the proceedings, it precludes the assessee from making objections regarding the service of the notice. However such provision has effect only when a notice is issued by the revenue.

In present case, the apex court noted that no notice was served to the assessee, thus, Section 292BB has no place.

Regarding the issue of service of notice under Section 143(2), when the assessee asked to treat the original ITR as return under Section 148, the bench said such request does not absolve the revenue from issuing such notice. The revenue has to issue notice directing the assessee to produce evidence.

The assessment must be framed after issuance of such notice and providing hearing, which is clearly missing in this case. Accordingly, the court dismissed the appeal of the income tax department.

https://www.taxscan.in/income-tax/income-tax-dept-must-serve-notice-us-1432-even-if-original-itr-requested-to-be-treated-as-return-us-148-supreme-court-read-judgment

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