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ICAI

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**BHUBANESWAR BRANCH OF EASTERN
INDIA REGIONAL COUNCIL OF
THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA**

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EDITORIAL



Dear Esteemed Members,

As we reflect on the month of June, it is gratifying to witness the remarkable enthusiasm and active participation that have characterized the initiatives of the ICAI Bhubaneswar Branch. The month has been marked by enriching learning opportunities, insightful deliberations, and meaningful engagement from our members and students, reaffirming our shared commitment to professional excellence and lifelong learning.

In an ever-evolving professional landscape, the need to remain informed, adaptable, and future-ready has never been greater. With this vision, our Branch continues to organize programmes that foster knowledge enhancement, skill development, and collaborative learning, while strengthening the bonds within our professional fraternity.

Looking ahead, we remain committed to introducing more initiatives that emphasize practical learning, leadership development, innovation, and greater member engagement. The continued progress of our Branch is a reflection of the collective efforts and unwavering support of our members, students, faculty, and volunteers. I encourage each one of you to actively participate in our upcoming programmes and contribute towards building a vibrant, progressive, and inclusive professional community.

I extend my heartfelt appreciation to our Managing Committee Members, esteemed faculty, volunteers, and every member whose dedication and support have been instrumental in the successful execution of our initiatives. Together, with a shared vision and unwavering commitment, I am confident that we will continue to achieve new milestones and uphold the values of our profession.

As we move forward, I wish you all continued success, good health, and many more opportunities for learning, growth, and professional excellence.

Warm regards,

CA (Dr.) Goutam Lenka

Chairman, ICAI Bhubaneswar Branch

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Members' area of Interest

Observations related to SA 330, The Auditor's Responses to Assessed Risks.

Observation 4:

It During the course of review of files, it has been observed that in a few cases no audit procedure has been performed.

What is the issue?	AASB Suggested Guidance	Technical Literature
What procedures are to be performed for material class of transactions, account balance and disclosures?	SA 330 mandates that audit firm should perform substantive procedures for each material class of transactions, account balance and disclosures, regardless of the assessed risk of material misstatement. Substantive procedures are audit procedures aimed at identifying material misstatements at the assertion level. They include: i. Tests of details: These involve examining specific classes of transactions, account balances, and disclosures. ii. Substantive analytical procedures: These involve evaluating financial information through analysis of relationships and trends to identify potential misstatements.	Para 4(a) of SA 330: Definition Substantive procedure – An audit procedure designed to detect material misstatements at the assertion level. Substantive procedures comprise: - Tests of details (of classes of transactions, account balances, and disclosures), and - Substantive analytical procedures. Para 18 of SA 330: Irrespective of the assessed risks of material misstatement, the auditor shall design and perform substantive procedures for each material class of transactions, account balance, and disclosure. (Ref: Para. A42-A47)
Why is it necessary for audit firm to perform detailed testing on each material class of transactions, account balance, and disclosure, even if the assessed risk of material misstatement is low?	Audit firm is required to perform detailed testing on each material class of transactions, account balance and disclosures, regardless of the assessed risk of material misstatement, for several key reasons: 1. Limitations of risk assessment: Risk assessments are based on judgment and may not identify all risks of material misstatement. 2. Limitations of internal control: Internal controls can be overridden or may have inherent weaknesses.	Para A42 of SA 330: Paragraph 18 requires the auditor to design and perform substantive procedures for each material class of transactions, account balance, and disclosure, irrespective of the assessed risks of material misstatement. This requirement reflects the facts that: - the auditor's assessment of risk is judgmental and so may not identify all risks of material misstatement; and - there are inherent limitations to internal control, including management override.



	3. Comprehensive coverage: Detailed testing ensures all significant areas are reviewed, enhancing the reliability of the financial statements. 4. Mitigation of audit risk: Performing substantive procedures reduces the overall audit risk and ensures that material misstatements are detected.	
What factors might lead an audit firm to choose between performing only substantive analytical procedures, solely tests of details, or a combination of both to reduce audit risk to an acceptably low level?	Under SA 330, an audit firm should decide on the audit procedures based on: 1. Risk assessment: Substantive analytical procedures: If the assessed risk is low and supported by effective controls, these procedures alone may suffice. 2. Nature of transactions: Tests of details: When the risk is high or transactions are complex, detailed tests are needed for accuracy. 3. Effectiveness of controls: • Effective controls: Effective internal controls can support the use of analytical procedures alone. • Weak controls: If controls are ineffective, tests of details are necessary. 4. Combination approach: Mixed procedures: Combining both approaches ensures comprehensive coverage and addresses various risks effectively. This approach ensures that audit risk is reduced to an acceptably low level.	Para A43 of SA 330: Depending on the circumstances, the auditor may determine that: • Performing only substantive analytical procedures will be sufficient to reduce audit risk to an acceptably low level. For example, where the auditor's assessment of risk is supported by audit evidence from tests of controls. • Only tests of details are appropriate. • A combination of substantive analytical procedures and tests of details are most responsive to the assessed risks.



Notice under Section 143(2) of the Income-tax Act, 1961

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Executive Summary

Section 143(2) of the Income-tax Act, 1961, is the principal provision under which the Assessing Officer (AO) may select a returned-case for scrutiny and require the assessee to produce evidence and explanations. A notice under section 143(2) precedes a detailed adjudication under section 143(3) and is therefore often the gateway to scrutiny assessment. This article provides an authoritative, practitioner-focused and analytically rigorous review of the scope, limitations, procedural matrix, protections available to the assessee, and practical considerations while replying to such a notice. It also consolidates leading judicial pronouncements, corporate case studies, real-life illustrations and numerical computations that are essential for tax professionals, chartered accountants and bankers advising corporates or representing assessee before the Income-tax authorities or appellate forums.

I. Statutory text and short explanation

Statutory text (Section 143(2), Income-tax Act, 1961)- The provision empowers the Assessing Officer to scrutinize the return after taking into account the return and the evidence submitted, if any. The notice under section 143(2) is issued when the AO considers it necessary or expedient to ensure that the assessee has not understated income, computed excessive loss, or underpaid tax. The AO may require the assessee to produce books of account, documents and to furnish information relevant to the assessment.

In short:

- Section 143(2) notice is an invitation for detailed inquiry, and it is the primary instrument for selection for scrutiny.
- The notice must be issued within the time limits prescribed by the Act and follow CBDT guidelines for selection and mandatory issuance where applicable.

II. Scope and purpose of Section 143(2)

A. Purpose

- The primary purpose of a notice under section 143(2) is verification- to enable the AO to examine the correctness and completeness of the return filed. It is not intended to be a fishing expedition or a covert fact-finding mission beyond the limits of relevance to the return.

B. What the AO can examine

- Arithmetical errors, incorrect claims apparent from the return, unsupported deductions, high-value or unusual transactions, discrepancy between TDS/TCS/third-party information and return figures, and transactions that trigger specific scrutiny selection algorithms (e.g., CASS/CASS-like selections).
- The AO can call for books of account, evidence substantiating claimed deductions or exemptions, bank statements, contracts, invoices, and any other relevant material.

C. What the AO cannot do under Section 143(2)

- Make a final assessment order without affording an opportunity of hearing and issuing a valid notice under section 143(2) where the return is not wholly accepted.
- Pursue irrelevant or mala fide enquiries that have no nexus to the return or to the stated income/tax positions.
- Usurp the role of a court; the AO must stick to statutory powers and cannot impose penalties or initiate prosecutions under the guise of section 143(2) without compliance with the relevant provisions.



III. Limitations, safeguards and judicial constraints

A. Time-limits

- Notices under section 143(2) must be issued within the time prescribed by law. Historically, the period for issuance has changed; practitioners must be careful to apply the law as it stood for the relevant assessment year. The faceless assessment regime and CBDT instructions also influence timelines used administratively.

B. Mandatory issuance (where assessment will differ)

- The issuance of a notice under section 143(2) is generally mandatory where the AO proposes to make an assessment which differs from the return filed — the Supreme Court's decision in *Hotel Blue Moon* and subsequent case law have reinforced that where the return is not to be accepted or where an assessment will be made contrary to the return, a valid section 143(2) notice is essential. See discussion and authorities below. [cite:turn2search9]

C. Requirement to follow selection criteria and CBDT guidelines

- Selection for scrutiny is generally governed by digital selection systems (e.g., CASS) and CBDT instructions. Notices issued contrary to CBDT selection protocols, or without any objective basis recorded, have been set aside by tribunals and High Courts in multiple instances. The Punjab & Haryana High Court's decision in *Commissioner of Income Tax v. Crystal Phosphates Ltd.* highlighted the need for compliance with selection guidelines. [cite:turn2search0:turn2search4]

D. Jurisdictional and procedural defects

- Jurisdictional errors (e.g., notice issued by an AO without territorial jurisdiction), defective service, or issuance beyond limitation may invalidate the notice and the assessment that follows. Several judicial decisions including High Courts and ITAT have quashed assessment orders where procedural safeguards were breached. (See cases cited in the bibliography.)

E. Principle against fishing and roving enquiries

- Courts have consistently noted that the AO's powers for scrutiny cannot be turned into a license for fishing expeditions. The AO must form a reasoned basis to scrutinize specific aspects; blanket requests for documents without nexus may be unsustainable on appeal.

IV. Leading judicial pronouncements (selected and practitioner-relevant)

A. Assistant Commissioner of Income Tax v. Hotel Blue Moon (Supreme Court)- significance-

- The Supreme Court in *Hotel Blue Moon* (reported as *Assistant Commissioner of Income Tax v. Hotel Blue Moon*) held that when the assessing officer intends to make an assessment contrary to the return filed, the issuance of a notice under section 143(2) is mandatory. The decision has been followed and applied widely. It underlines that notice is not a mere formality but a condition precedent to valid assessment where variance with return is contemplated. [cite:turn2search9:turn2search15]

B. CIT v. Oberoi Hotels Pvt. Ltd.- application of Hotel Blue Moon

- In proceedings involving Oberoi Hotels, courts have reiterated that the absence of a 143(2) notice where the AO intends to depart from the returned position would render the assessment void- the Oberoi judgments apply the Hotel Blue Moon principle in reassessment and regular assessment contexts. [cite:turn2search1:turn2search11]

C. Crystal Phosphates Ltd. v. CIT (Punjab & Haryana High Court)- compliance with CBDT/CASS

- The Punjab & Haryana High Court quashed assessment proceedings where selection and issuance of notice under section 143(2) did not comply with the CBDT's selection and scrutiny protocol. The judgment underscores that administrative guidelines and objective selection criteria are not optional; non-compliance can vitiate the process. [cite:turn2search0:turn2search4]

D. Other tribunal decisions

- Multiple ITAT decisions have held that issuance of a notice before the return is processed or where the notice pre-dates the filing of the return, or where the AO issues a notice without jurisdiction, will be invalid. ITAT orders have often been followed by High Courts in quashing assessments for procedural lapses. [cite:turn2search13:turn3search10]



V. Procedure: step-by-step lifecycle of a Section 143(2) notice

A. Selection

- The return is selected for scrutiny (either electronically via selection criteria or manually in a rare legacy context).
- The AO or the assigned faceless unit prepares a scrutiny notice, often accompanied by a questionnaire and list of documents required.

B. Service of notice

- The notice is uploaded on the Income-tax portal (faceless scheme) or served physically/electronically to the assessee's registered address/email. Proof of service and correctness of address are important if the assessee later contends non-service.

C. Response by assessee

- The assessee (or authorised representative) must file a detailed reply within the time specified (the notice typically allows a period to submit documents and appear). Under the faceless scheme, documents are uploaded and submissions made electronically.

D. Hearing and evidence

- The AO examines evidence, queries documents, and may seek clarifications. Under principles of natural justice, the assessee must be given an opportunity to be heard before any adverse finding is made.

E. Draft order/detection of adjustments

- If the AO proposes adjustments, a draft assessment order under section 144C (if the case falls under the DRP route) may be prepared and served to the assessee. The assessee may seek DRP or file objections as applicable.

F. Final order under section 143(3)

- After considering submissions and compliance with statutory procedure, the AO issues a final order under section 143(3), communicating the assessed income, tax demand or refund. If the AO has failed to issue a valid section 143(2) notice where necessary, such final order is vulnerable to being quashed on appeal.

VI. Practical considerations and things to keep in mind while replying to a Section 143(2) notice

A. Initial checklist on receiving notice

1. Verify identity and jurisdiction of the issuing authority (PAN, AY, AO code, ward/division).
2. Confirm time and mode of service; note timelines for response.
3. Read the notice carefully- identify specific issues queried and documents demanded.
4. Check selection source- is it under CASS/compulsory scrutiny? Has any defect been highlighted under CBDT guidelines?
5. Preserve original books and documents; prepare working papers and reconciliation statements.

B. Drafting a substantive reply- principles

1. Be factual and documentary: pointwise reply matching each query in the notice.
2. Wherever possible, provide reconciliations (e.g., bank reconciliation, schedule reconciling turnover to GSTR/TDS/TCS and Form 26AS).
3. Provide copies of contracts, agreements, bills, audit reports, board resolutions, transfer pricing documentation (where relevant).
4. If jurisdictional or procedural defects are present (e.g., notice issued beyond limitation or by an officer without territorial jurisdiction), raise the objection politely and simultaneously provide a qualified substantive reply to avoid criticism of non-cooperation.
5. Maintain a formal index of documents submitted with page numbers and short descriptions.



C. Protecting procedural rights

1. If the notice is defective (time-barred, wrong AO, not in prescribed form), consider raising these objections early and in writing.
2. Preserve the right to approach the DRP, CIT(A) or file writs if mandatory statutory requirements are violated.
3. Maintain contemporaneous records of submissions and communications (uploaded proofs, receipt numbers).

D. Avoid common pitfalls

1. Do not over-share un-asked information- provide only what is requested plus reasonable supporting documents. Extra documents may invite further queries.
2. Do not ignore the notice on grounds of technical objections alone; a dual strategy (raise objections + provide necessary documents) is safer.
3. Keep professional representation ready- an experienced tax lawyer or chartered accountant often helps manage hearings effectively.

VII. Corporate case study- Apex Electronics Ltd. (Illustrative; factual matrix hypothetical but realistic)

Background

Apex Electronics Ltd., a medium-sized manufacturer based in Jaipur, filed its return for AY 2024-25 declaring total income of Rs. 8.50 crore and paid tax accordingly. The return was selected for scrutiny under CASS for "large volume cash receipts and mismatch in GST and income declared".

The AO issued a notice under section 143(2) asking for:

- Break-up of cash sales vs. credit sales, with invoices;
- Bank statements for FY 2023-24;
- GST returns and reconciliations;
- Details of discounts/allowances liable for TDS.

Assessee's response strategy

1. Prepared a pointwise reply matching the notice with a reconciliation of sales in books to GST returns, supported by sample invoices, bank statements showing deposit of cash collections in bank within 7 days, and ledger explanations.
2. Produced a working paper showing reconciliation between ledger sales (Rs. 20.00 crore), GST taxable supplies (Rs. 19.80 crore), and ITR turnover (Rs. 19.90 crore) along with explanation of timing differences.
3. Submitted reconciliation with Form 26AS and TDS certificates, and a board resolution authorising the representative to appear.

Outcome (hypothetical but typical)

- The AO initially proposed an adjustment of Rs. 1.20 crore as unexplained cash receipts. On production of detailed reconciliations and GST input credits, the AO accepted Rs. 95 lakh as explained and reduced the proposed adjustment to Rs. 25 lakh (treated as income from undisclosed sources). The corresponding tax and interest were computed and paid after reducing the penalty risk by demonstrating bona fide intention and cooperation.

Key learning points from the case study

- Meticulous reconciliations, early engagement with AO, and documentary evidence often reduce quantum and avoid penalties.
- Raising valid procedural objections (if any) is important but do not substitute a thorough documentary defense.

VIII. Numerical illustration (simple and illustrative)

Assessee XYZ Ltd.- Illustration of proposed disallowance and tax impact

Declared income (as per return): Rs. 10,00,000

Proposed addition by AO under 143(2)/143(3): Rs. 2,50,000 (unexplained cash deposits)



Tax rate (corporate small company / for illustration): 25%

Surcharge and cess ignored for simplicity.

Tax on declared income: 10,00,000 * 25% = Rs. 2,50,000

Tax on declared + proposed addition: 12,50,000 * 25% = Rs. 3,12,500

Incremental tax liability: Rs. 62,500

Interest under section 234A/234B/234C may be applicable depending on timing of payment and defaults-and penalty exposure under section 271(1)(c) may arise if AO alleges concealment or misrepresentation.

By preparing reconciling statements showing that the cash deposits were borrowings and supported by contemporaneous loan documents, the assessee can potentially reverse the addition- leading to savings in tax, interest and penalty risk.

IX. Case-law extracts and short notes (practical summaries)

1. Hotel Blue Moon (Supreme Court)- Notice mandatory where assessment deviates from return:

The Court held that where return is not to be accepted in part or whole and the assessing officer proposes to make an assessment differing from the return filed, the issuance of notice under section 143(2) is mandatory. This view has been applied by multiple High Courts and Tribunals in subsequent litigation. [cite:turn2search9]

2. Oberoi Hotels- Application of the Hotel Blue Moon principle:

Courts applied the Hotel Blue Moon ratio and held that the failure to issue a valid 143(2) notice will render the assessment void where the AO has departed from the return position. [cite:turn2search1turn2search11]

3. Crystal Phosphates (Punjab & Haryana HC)- Compliance with CBDT selection protocol:

The High Court quashed assessment where the revenue failed to demonstrate compliance with CBDT selection process; the decision reinforces that administrative selection criteria are material to the validity of a scrutiny notice. [cite:turn2search0turn2search4]

X. Draft checklist and sample reply (Annexures)

Annexure A- Quick practitioner checklist on receipt of a Section 143(2) notice

1. Note AY, PAN, AO code and ward/division and confirm jurisdiction.
2. Check the select reason (if mentioned) and CBDT/CASS compliance where possible.
3. Prepare a pointwise reply aligning to the notice queries.
4. Reconcile books, returns, GST, Form 26AS and bank statements.
5. Prepare an indexed bundle of documents with page numbering.
6. Where jurisdictional defect exists, raise in writing but also provide substantive reply.
7. Avoid argumentative language; be factual and documentary.
8. Seek adjournments if more time is needed but avoid serial adjournments.
9. Preserve email records and proof of uploading on the portal.
10. Consider pre-litigation strategy- DRP objections, writ jurisdiction if mandatory procedure violated.

Annexure B- Sample point-wise reply template (concise).

[Address & reference as per notice]

Dear Sir/Madam,

Re: Notice under Section 143(2) for AY _____ (PAN: _____)

We refer to the notice dated _____ and submit our point-wise replies as under:

1. Query: [copy the exact query]
Reply: [brief factual reply] Enclosed: [list of documents with page numbers]
2. Query: ...
Reply: ...



Yours faithfully,
For [Assessee]
Authorised Signatory
Encl: Index of documents

XI. Litigation strategy and appellate remedies

A. Where assessment is quashed for procedural defects

- If the AO or Department proceeds without a valid 143(2) notice, the assessee may succeed before the tribunal or High Court in getting the assessment quashed. Recent authorities show revenue's attempts to justify defective notices are increasingly scrutinised. [cite:turn2search4:turn2search11]

B. Balancing approach of raising objections vs. cooperative compliance

- Tribunal and High Court jurisprudence favors substance over form but remains firm on procedural fairness. A measured approach -raising jurisdictional / procedural objections while diligently responding to substantive queries- is recommended.

XII. Conclusion

Section 143(2) is a potent tool for the Revenue to ensure tax compliance but it is bounded by statutory limitations, time-limits, CBDT instructions and settled judicial principles that guard against arbitrary or mala fide exercise.

For practitioners, the twin objectives are

- (1) timely and documented compliance with legitimate requests and
- (2) early identification and measured assertion of procedural and jurisdictional rights where the notice is defective. Careful, well-indexed responses, proper use of reconciliations and an informed litigation strategy will materially reduce the risk of adverse assessments, interest and penalties.

References and selected reading (non-exhaustive)

1. Assistant Commissioner of Income Tax v. Hotel Blue Moon (Supreme Court)- principle on mandatory notice under section 143(2). [cite:turn2search9:turn2search15]
2. CIT v. Oberoi Hotels Pvt. Ltd. - application and illustration. [cite:turn2search1:turn2search11]
3. Commissioner of Income Tax v. Crystal Phosphates Ltd. (Punjab & Haryana High Court)- compliance with CBDT selection protocol. [cite:turn2search0:turn2search4]
4. CBDT instructions and selection criteria (see CBDT circulars and faceless assessment instructions). [cite:turn3search3]
5. Relevant ITAT orders on notice issuance and jurisdictional defects. [cite:turn2search13:turn3search10]



Glimpses of Events

Lakshya – National CA Conference 2026, organized by the Board of Studies (Academic), ICAI and hosted by the ICAI Bhubaneswar Branch, inspired future Chartered Accountants through learning, leadership, and excellence.





**#Lakshya2026 #NationalCAConference #ICAI #BoardOfStudies
#ICAIBhubaneswarBranch #CAStudents #FutureCAs #Learning #Leadership
#ProfessionalExcellence**



“Celebrating International Yoga Day at ICAI Bhubaneswar Branch”



**#InternationalYogaDay #ICAI #ICAI Bhubaneswar Branch #YogaForWellness
#HealthyMindHealthyBody #Wellness #MCMembers**



“World Bicycle Day- ICAI Bhubaneswar Branch”



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