

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“C” BENCH: BANGALORE**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER  
AND  
SHRI PRAKASH CHAND YADAV, JUDICIAL MEMBER**

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| ITA No.1721/Bang/2024    |
| Assessment Year: 2018-19 |

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| Smt. Neelamma<br>W/o Nagaraj K.V.<br>Nelaraj Nilaya<br>Opp Lazman Garage<br>Savarine Road<br>Shivamogga 577 201<br>Karnataka<br><br><b>PAN NO : BFWPN1543P</b> | <b>Vs.</b> | ITO<br>Ward-1 & TPS<br>Shivmogga |
| <b>APPELLANT</b>   |            | <b>RESPONDENT</b>                |

|                      |   |   |
|----------------------|---|---|
| <b>Appellant by</b>  | : | Sri Monish, A.R.                                    |
| <b>Respondent by</b> | : | Sri Ganesh R Ghale, Standing counsel for department |

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|------------------------------|---|------------|
| <b>Date of Hearing</b>       | : | 11.12.2024 |
| <b>Date of Pronouncement</b> | : | 12.12.2024 |

**O R D E R**

**PER PRAKASH CHAND YADAV, JUDICIAL MEMBER:**

Present appeal of the assessee is arising from the order of Id. CIT(A) dated 12.7.2024 having DIN & Order No.ITBA/NFAC/S/250/2024-25/1066633331(1) and relates to assessment year 2018-19.

**2.** The assessee was carrying on the business of flowers for last 15 years. For the impugned assessment year, the assessee could not file any return of income. Thereafter, an information, revealing that assessee has deposited Rs.61,90,000/- in City Co-operative Bank Ltd, has come into the possession of the department. Based on this information, the AO issued a notice u/s 148A(b) of the Income Tax

Act, 1961 (in short "The Act") to the assessee on 22.3.2022, seeking reply/explanation of the assessee. In response to the show cause notice, the assessee filed her reply on 30.3.2022. The assessee categorically contended that there was no such deposit, as has been alleged in the notice issued u/s 148A(b) of the Act. The assessee further clarified that she has deposited only Rs.12,38,000/- with City Co-operative Bank Ltd. The assessee also explained that the source of this cash was her business of flowers. The AO passed an order u/s 148A(d) of the Act vide its order dated 7.4.2022 and accepted that assessee was correct in submitting that the amount deposited was Rs.12,38,000/- only. However, the AO could not drop the proceedings and issued a notice u/s 148 of the Act on 12.4.2022 requesting the assessee to furnish return of income. In response to this notice, the assessee filed her return of income. Thereafter, the AO framed the assessment, holding that the amount of Rs.12,38,000/- is taxable in the hands of assessee u/s 69A of the Act.

**3.** Aggrieved with the order of the AO, the assessee filed an appeal before Id. CIT(A), wherein it has been agitated that the assessee has duly explained the source of Rs.12,38,580/-. However, the Id. CIT(A) could not find any force in the arguments of the assessee and affirmed the order of AO.

**4.** Now the assessee has come up in appeal before us. Assessee has raised around 11 grounds of appeal, out of which ground Nos.1, 10 & 11 are general in nature. In ground Nos.2 to 8, the assessee has challenged the action of lower authorities vis-à-vis merits of the addition. Ground No.9 is related to charging of interest u/s 234A, 234B & 234C of the Act.

**4.1** Besides these grounds, the assessee has also filed an application dated 4.9.2024, raising certain additional grounds challenging the jurisdiction of the AO u/s 148 of the Act. In one of the additions ground the assessee has contended that notice issued u/s 148 of the Act is barred by limitation in view of the provisions of section 149(1)(b) of the Act.

**4.2** Ld. Counsel for the assessee pressing the legal ground vehemently argued that in this case, the escaped income was Rs.12,38,000/- and the assessment year involved is assessment year 2018-19 and therefore, the notice issued on 12.4.2022 is barred by limitation.

**5.** The ld. D.R. appearing on behalf of the revenue has relied upon the 3<sup>rd</sup> proviso to section 148A of the Act and contended that extended period of limitation was available to the AO.

**6.** We have heard the rival submissions and perused the materials available on record. We observe that in this case, the assessment year involved is 2018-19 and the time limit for issuing notice u/s 148 of the Act was 30<sup>th</sup> March, 2022, reason being the escaped income is admittedly Rs.12,38,000/-. Law permits the department to issue a notice u/s 148 of the Act beyond the period of 3 years, provided the escaped income is more than Rs.50 lakhs. However, in the present case, it is an admitted position of fact that the escaped income is Rs.12,38,000/- only. Therefore, we are of the considered opinion that the impugned notice issued u/s 148 of the Act is barred by limitation. 3<sup>rd</sup> Proviso relied on by the Ld DR is not applicable to the facts of the present case. Our view is fortified by the judgement of Jurisdictional High Court in the case of Sanat Kumar Murali Vs. ITO (2023) 152 taxmann.com 231 and in the case of Prameela Mahadev Tatkase Vs. ITO (2024) 158 taxmann.com 246.

Further, the coordinate bench of the Tribunal recently in the case of Sri Lakshmi Multipurpose Co-operative Society in ITA No.935/Bang/2024 dated 24.6.2024 in para 7.1 to 8 has observed as under:

“ 7.1 For the sake of convenience, we deem it appropriate to reproduce the observation of the Hon’ble High Court in these cases:-

- a) *Sanath Kumar Murali Vs. ITO, [2023] 152 taxmann.com 231.*”

*“It is clear that there is a bar prohibiting the issuance of notice under section 148 of I.T. Act if three years has elapsed from the end of the relevant Assessment Year unless the case falls under Clause-(b). Accordingly, no notice under section 148 could be issued after three years from the end of Assessment Year 2016-2017, is subject to the exception of extended period of limitation of three years, but not more than ten years from the end of relevant Assessment Year, if the Assessing Officer has material which would reveal that "the income chargeable to tax" which has escaped the assessment amounts or is likely to amount to Rs. 50.00 lakh rupees or more”*

- b) *Pramila Mahadev Tadkase Vs. ITO, [2024] 158 taxmann.com 246*  
(Kar)

*“As per the terms of section 149 of the IT Act, notice under section 148 of the IT Act cannot be issued, after three years have elapsed from the end of the relevant assessment year, unless income chargeable to tax which has escaped assessment is likely to amount to Rupees Fifty Lakh or more, and as such, Sri. E. I. Sanmathi, the learned standing counsel for the respondents, does not contest the third limb of the petitioner's case as canvassed by Sri.A Shankar*

8. *Perusal of the above judgments would show that Hon’ble High Court after analyzing the purport of section 149(1)(b) has clearly laid down that unless the escaped income is above Rs 50 lakhs no action beyond three years could be taken against an assessee. Therefore, respectfully following the view of the High Court we quash the present proceedings.”*

**6.1** Respectfully following the view of the Hon’ble High Court as well as of coordinate bench, we allow the appeal of the assessee.

**6.2** Since we have already adjudicated the appeal on legal ground, the other grounds related to the merit of the addition became academic.

**7.** In the result, appeal of the assessee is allowed.

Order pronounced in the open court on 12<sup>th</sup> Dec, 2024

**Sd/-**  
**(Waseem Ahmed)**  
**Accountant Member**

**Sd/-**  
**(Prakash Chand Yadav)**  
**Judicial Member**

Bangalore,  
Dated 12<sup>th</sup> Dec, 2024.  
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The DR, ITAT, Bangalore.
5. Guard file

By order

**Asst. Registrar,**  
**ITAT, Bangalore.**