

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम
IN THE INCOME TAX APPELLATE TRIBUNAL
VISAKHAPATNAM “DIVISION” BENCH, VISAKHAPATNAM
(HYBRID HEARING)

श्री वीरवल्ली दुर्गा राव, न्यायिक सदस्य एवं श्री एस बालाकृष्णन, लेखा सदस्य के समक्ष
BEFORE SHRI VEERAVALLI DURGA RAO, HON’BLE JUDICIAL MEMBER

&

SHRI S BALAKRISHNAN, HON’BLE ACCOUNTANT MEMBER

आयकर अपीलसं./I.T.A.No.299/VIZ/2025
(निर्धारण वर्ष/ Assessment Year: 2013-14)

Venkata Lakshmi Padmavathi Uppalapu 54-16-1-17A, Opposite Layola Gardens Layola College Road, VJ Polytechnic S.O. Krishna Vijawayada (Urban) – 520008 Vijayawada, Andhra Pradesh [PAN: AATPU4345H]	v.	Income Tax Officer - Ward 2(3) C.R. Building Vijayawada – 520001 Andhra Pradesh
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)

करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Smt A. Aruna, Advocate
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Dr. Aparna Villuri, Sr.AR
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	04.06.2025
घोषणा की तारीख/Date of Pronouncement	:	09.06.2025

आदेश /ORDER

PER SHRI S BALAKRISHNAN, ACCOUNTANT MEMBER:

1. This appeal is filed by the assessee against the order of Learned Commissioner of Income Tax (Appeals), National Faceless Appeal centre, Delhi [hereinafter in short “Ld.CIT(A)”] vide DIN & Order No.

ITBA/NFAC/S/250/2024-25/1074284623(1) dated 10.03.2025 for the A.Y.2013-14 arising out of order passed under section 147 of the Income Tax Act, 1961 (in short 'Act') dated 26.03.2022.

2. Brief facts of the case are that, assessee is an individual and has not filed return of income for the A.Y. 2013-14. Ld. Assessing Officer [hereinafter in short "Ld. AO"] based on the information from the AIMS Module that the assessee has entered into following transactions: -

- i. Deposited cash of Rs. 10,00,000/- or more in a Saving Bank Account at Rs.1,49,11,200/-*
- ii. Deposited in cash aggregating Rs. 2,00,000/- or more with a banking company at Rs. 48,70,400/-.*

3. Accordingly, the case of the assessee was reopened under section 147 of the Act with the prior approval of the competent authority. Subsequently, notice under section 148 of the Act was issued on 31.03.2021. In response, the assessee had filed her return of income on 19.08.2021 declaring total income of Rs.79,620/- for A.Y. 2013-14. Statutory notices under section 143(2) and 142(1) of the Act were issued and served on the assessee from time to time. The assessee has furnished reply on 20.03.2022 and 21.03.2022. Further, show cause notice along with draft assessment order was issued on 23.03.2022. In compliance to show-cause notice, the assessee has submitted reply on 24.03.2022. After considering the reply of the assessee, the Ld. AO completed the reassessment proceedings under section 147 r.w.s 144B of the Act by making and addition of

Rs. 1,97,81,600/- under section 69A of the Act on account of unexplained money and determined total income of the assessee at Rs.1,98,61,220/-.

4. On being aggrieved, assessee preferred an appeal before Ld. CIT(A) but the assessee even after receipt of the hearing notices on various dates did not file any supporting documents on his contentions as per the grounds of appeal raised by the assessee as called for. Therefore, the Ld. CIT(A) disposed of the appeal based on the merits available on record.

5. On being aggrieved, assessee preferred an appeal before the Tribunal and raised following grounds of appeal: -

“1. Notice Under Section 148 Served After 1st April 2021-New Law Applicable The Income Tax Department issued a notice under Section 148 on 30th March 2021, but the same was served only after 1st April 2021—a critical date when the Finance Act, 2021 amended the reassessment procedure. As per law, service of notice is the determining factor for applicability of the new law, not merely the date of issuance. Relevant Judgment: Union of India v. Ashish Agarwal (2022) 138 taxmann.com 64 (SC). The Supreme Court held that all notices issued under the old regime but served after 1st April 2021 must be treated as issued under the new law. The Court also emphasized that such reassessments must comply with Section 148A procedures.

2. *Non-Compliance with Mandatory Procedure under Sec-148A*

The new legal regime (post 1st April 2021) mandates the following steps before issuing a notice under Section 148: Section 148A (a): Conduct preliminary enquiry, if required Section 148A(b): Issue as how-cause notice giving the assessee an opportunity to be heard. Section 148A (d): Pass a speaking order explaining the rationale for reopening. In this case, none of the above mandatory steps were complied with. Supporting Judgments: Ajay Bhandari v. UOI (2023) 452 ITR 414 (All HC): Held that non-compliance with Section 148A(b) and (d) renders the notice invalid. Rajeev Bansal v. UOI (2023) 289 Taxman 389 (Cal HC): Reassessment quashed for not issuing as speaking order under Section 148A(d). Touchstone Holdings Pvt. Ltd. v. ITO (2022) 448 ITR 693 (Del HC): Invalidated reassessment due to lack of procedural adherence to Section 148A.

3. *Violation of Principles of Natural Justice* The appellant was not given any opportunity to respond to a show-cause notice, nor was any hearing offered. No order under Section 148A(d) was passed explaining why reassessment was necessary. This omission is a serious breach of natural justice, and reassessment proceedings are liable to be quashed on this ground alone.

4. *Reopening is Barred by Limitation under Section 149* The A. Y in question is 2013-14 (FY 2012-13). As per Sec 149:

a. Normal time limit to reopen is 3 years, i.e., up to 31st March 2017.

b. Reopening beyond 3 years is allowed only if the alleged escaped income exceeds 50 lakh and is represented in the form of assets.

In the present case: a. The notice was issued in March 2021, well beyond the 3-year period. b. The total deposit was 49.80 lakh, which is below the 50 lakh threshold. Therefore, reopening is barred by limitation.

5. *Amount Alleged to Have Escaped Assessment Is Factually Incorrect* The AO wrongly claimed that the deposits amounted to 1.97crore. However, as per the bank records, the actual cash deposits were: a. Andhra Bank: 49,70,400 b. ICICI Bank: 10,000 c. Corporation Bank: 500 Total: 49.80 lakh. Hence, the entire reassessment is based on a gross factual error. Supporting Judgment: CIT v. S.S.Dhamija (Delhi HC) :Held that facts must be correctly appreciated, and reassessment based on incorrect assumptions cannot stand.

6. *Genuine Source of Income: Agricultural Produce* The appellant is an agriculturist by profession. The cash deposits in question were from sale of Urdal, Mangoes, Black Gram, Maize It is well known that agricultural sales, especially in rural areas, are often conducted in cash, and this money is later deposited into bank accounts. Agricultural income is exempt from tax under the Income Tax Act. Supporting Judgments: CIT v. P.V.R.S.Raja (SC):Held that income from agricultural produce is not taxable unless the contrary is proved by the department. CIT v. B.N.S.S.S. Subrahmanyam (AP HC): Confirmed that income shown to be from agriculture cannot be treated as unexplained.

7. *Misapplication of Section 69A (Unexplained Money)* Section 69A is applicable only when the source of money is unsubstantiated or false. In this case: The appellant has clearly explained the source as agricultural income. There is no contrary evidence from the department to show the income is fictitious. Hence, invoking Section 69A is unjustified Supporting Judgment: N.K.Maheshwariv. ITO (Rajasthan HC): Held that if the assessee gives a plausible explanation, Section 69A cannot be invoked arbitrarily.

8. *Prior Case Laws Confirming Invalidity of Notices Issued Without Due Process* CIT v. Thayaballi Mulla Jeevaji Kapasi (1967) 66 ITR 147 (SC): Supreme Court held that valid service of notice is a jurisdictional requirement; absence of which makes proceedings void. PCIT v. Velayudham V. (2023) 455 ITR 41 (Mad HC): Reassessment struck down where the new law was not followed even though the notice was served after 1st April 2021. CIT v. Chetan Gupta

(2015)378ITR190 (Del HC): Held that compliance with procedural safeguards is mandatory; failure invalidates the reassessment.

9. *Final Submission and Prayer In light of the facts, legal provisions, and binding judicial precedents, the following conclusions are evident:*

a. The notice under Section 148 is invalid as it was served after 1st April 2021 without complying with the new procedure under Section 148A.

b. The entire reassessment process is vitiated by non-compliance with mandatory legal provisions and the principles of natural justice.

c. The income alleged to have escaped assessment is below 50 lakh and does not qualify for reopening beyond the 3-year period. The figures used by the AO are incorrect, and the source of income is genuine and non-taxable.

PRAYER The appellant respectfully prays that: a. The reassessment proceedings initiated under Section 148 be declared void ab initio; b. The assessment order be quashed in entirety; c. All additions made to the income be deleted in the interest of justice, equity, and fair play.”

6. At the outset, Ld. Authorised Representative [hereinafter “Ld.AR”] submitted that Ld.CIT(A) passed exparte order without providing adequate opportunity of being heard to the assessee. Therefore, considering additions/disallowance made by the Ld. AO, Ld.AR pleaded that one more opportunity may be granted to the assessee before the Ld. CIT(A) and the matter may be remitted back to the file of the Ld. CIT(A).

7. On the other hand, Ld. Departmental Representative [hereinafter in short “Ld. DR”] relied on the order of the Ld.CIT(A) and submitted that assessee has not utilized the opportunity provided by Ld.CIT(A). Therefore, the order passed by Ld. CIT(A) is exparte order and pleaded to confirm the orders passed by the Revenue Authorities.

8. We have heard both the sides and perused the material available on record. On a perusal of the Ld.CIT(A) order, it is observed that even though the Ld.CIT(A) provided opportunity on several occasions, assessee could not appear nor complied to the notices issued. Considering the submissions of the Ld. AR and totality of facts and keeping in view the additions / disallowance made by the Ld. AO, in the interest of providing substantial justice, we are of the opinion that assessee should be given one more opportunity of being heard. Therefore, considering the facts and circumstances of the case and in order to meet the principles of natural justice, we are of the view that it is a fit case to remit the matter back to the file of the Ld. CIT(A) for fresh consideration and decide the case on merits. Assessee is directed to cooperate with the proceedings before the Ld. CIT(A) without seeking unnecessary adjournments. Thus, the grounds raised by the assessee are allowed for statistical purposes.

9. In the result, appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 09th June,2025.

Sd/-
(वीरवल्ली दुर्गा राव)
(VEERAVALLI DURGA RAO)
न्यायिक सदस्य/JUDICIAL MEMBER
Dated: 09.06.2025
Giridhar, Sr.PS

Sd/-
(एस बालाकृष्णन)
(S. BALAKRISHNAN)
लेखा सदस्य/ACCOUNTANT MEMBER

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :-

1. निर्धारिती/ The Assessee : **Venkata Lakshmi Padmavathi Uppalapu**
54-16-1-17A, Opposite Layola Gardens
Layola College Road, VJ Polytechnic
S.O. Krishna Vijawayada (Urban) – 520008
Vijayawada, Andhra Pradesh
2. राजस्व/ The Revenue : **Income Tax Officer - Ward 2(3)**
C.R. Building
Vijayawada – 520001
Andhra Pradesh
3. The Principal Commissioner of Income Tax
4. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, विशाखापटणम /DR,ITAT, Visakhapatnam
5. The Commissioner of Income Tax
6. गार्डफ़ाईल / Guard file

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam