

**आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम**

**IN THE INCOME TAX APPELLATE TRIBUNAL  
VISA KHAPATNAM "SMC" BENCH, VISA KHAPATNAM**

**(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.104/VIZ/2025  
(निर्धारण वर्ष/ Assessment Year: 2016-17)**

<b>Nanneboyina Kalyan Chakravarthy</b> C/o. C.R. HemanthKumar H.No 9-14-4/7, Flat No. 7 SowbhagyaApartments CBM Compound, VIP Road Andhra Pradesh - 530003  [PAN: CUEPK3530P] (अपीलार्थी/ Appellant)	v.	<b>Income Tax Officer</b> <b>Ward International Taxation</b> CR Building, 1 <sup>st</sup> Floor Annex. M.G. Road, Vijayawada Andhra Pradesh – 520002  (प्रत्यर्थी/ Respondent)
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करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri CR Hemanth Kumar, CA
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Dr. Aparna Villuri, Sr.AR
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	02.06.2025
घोषणा की तारीख/Date of Pronouncement	:	09.06.2025

**आदेश / O R D E R**

**PER SHRI S BALAKRISHNAN, ACCOUNTANT MEMBER:**

1. This appeal filed by the assessee against final Assessment Order passed under section 147 r.w.s 144C(13) of Income Tax Act, 1961 [hereinafter in

short “the Act”] vide DIN & Order No. ITBA/AST/S/147/2024-25/1071217684(1) dated 03.12.2024 for the A.Y. 2016-17.

2. The facts of the case are, assessee is an NRI and as per the Risk Management Strategy formulated by the CBDT through insight portal the Ld.Assessing Officer (in short “Ld. AO”) observed that the assessee has entered into the following transactions: -

Deposited cash of Rs. 10,00,000/- or more in a savings bank account	ICICI Bank Ltd.,	Rs. 26,72,500/-
Deposit in cash aggregating to Rs.2,00,000/- or more, with a banking company	ICICI Bank Ltd.,	Rs.28,45,000/-
TDS Statement Rent	Shanta Sriram Infra & Cons Pvt. Ltd.,	Rs.7,06,501/-
TDS Statement – payment made to Non-residents	ICICI Bank Ltd.,	Rs. 78,133/-

3. Ld. AO observed that assessee has not filed his return of income for the assessment year under consideration, he therefore considered the above transactions as income escaping the assessment and issued show-cause notice under section 148A(b) to the assessee on 07.03.2023. In response, assessee submitted his reply. Ld. AO being not satisfied with the reply furnished by the assessee passed an order under section 148A(d) of the Act on 31.03.2023. Ld.AO considered that assessee case as a fit case for issue of notice under section 148 of the Act, he therefore proceeded to issue notice under section 148 of the Act on 31.03.2023. Ld. AO also obtained information from banks under section 133(6) of the Act. During the course of assessment proceedings

Ld. AO noticed that the assessee has deposited cash of Rs.28,45,000/- into his ICICI Bank Limited bearing Account No. 630701078420 during the Financial year 2015-16. Assessee was asked to furnish the source for cash deposits. In response, assessee vide his reply dated 25.11.2023 stated that cash deposits into his ICICI bank account are out of cash withdrawals made from NRE Account over a period of time from 2005-2016 which was held in cash due to the illness of his father and grand-mother. Subsequent to the demise of father and grand-mother assessee re-deposited the available cash into the NRO Account with ICICI Bank Account. Assessee also submitted that Ld. AO has considered the cash deposits twice while framing the order under section 148A(d) of the Act. Ld. AO without considering the objections, passed a draft Assessment Order under section 144C(1) of the Act. Assessee raised his objections before Dispute Resolution Panel (in short "Ld.DRP") wherein the Ld. DRP dismissed the objections raised by the assessee. Ld. AO thereafter passed a final Assessment Order confirming the addition of Rs. 26,72,500/- as unexplained income under section 69A of the Act.

4. Being aggrieved by the additions made by the Ld. AO, assessee filed an appeal before the Tribunal by raising following grounds in its appeal: -

*"1 The order of the Assessment framed by the Ld. Assessing Officer dated 03.12.2024, International Taxation, Vijayawada, pursuant to the direction of the Hon'ble Dispute Resolution Panel-I, Bengaluru (hereinafter referred to as 'the DRP') under section 147 r.w.s 144C(13) of the Act is not correct either in law or on facts and in both.*

2. *In the facts and circumstances of the case, the Ld.DRP-1, Bengaluru is not justified in upholding the notice u/s 148 of the Act dated 31.03.2023 issued after expiry of three years, without appreciating the fact that the deposits in the bank are below Rs.50 lacs, i.e. Rs.26,72,500/- and therefore, the reassessment proceedings are legally untenable and deserve to be quashed.*

3. *The Ld.DRP failed to appreciate the fact that the initiation of proceedings u/s 148, based on incorrect figures that cash deposits are Rs.55,17,500/- instead of the actual Rs.26,72,500/-, is bad in law, and therefore, the consequent reassessment proceedings are equally bad in law.*

4. *Without prejudice to grounds 1-3 above, the Ld.DRP-1, Bengaluru is not justified in confirming the addition proposed towards cash deposits of Rs.26,72,500/- treating them as unexplained u/s 69A without appreciating the fact that the appellant had sufficient sources for making the same.*

5. *The appellant craves, leave to add amend or alter any of the grounds at the time of the hearing of the appeal.”*

5. The issues challenged by the assessee are with respect to the addition of Rs.26,72,500/- and the legality of reopening the assessment under section 148 of the Act beyond the period of three years wherein the investment and assets does not exceed Rs.50 lakhs. On the issue of validity of the reopening, Ld. Authorized Representative (hereinafter in short “Ld.AR”) submitted that Ld. AO has erred in adding the deposits twice while framing the show cause notice under section 148A(b) of the Act. Ld.AR submitted that since the income escaping assessment has not exceeded specified limit of Rs. 50 lakhs the Assessment Order passed by the Ld. AO is void-ab-initio. He therefore pleaded that the re-assessment proceedings be quashed.

6. Per contra, Ld. Departmental Representative (in short “Ld. DR”) submitted that the assessee has not responded to show cause notice and hence investment in the assets exceeded Rs.50 Lakhs and accordingly assessment is valid in law. Ld. DR heavily relied on the orders of the Revenue Authorities.

7. We have heard both the sides and perused the material available on record. Before deciding the case on merits, the ground raised challenging the legality of issue of notice under section 148 of the Act shall be addressed. Ld.AO has issued show-cause notice dated 07.03.2023 for the A.Y. 2016-17 which is beyond period of three years. However, the contention of the Ld.AO is as per the provisions of Section 149(1)(b) of the Act income escaping assessment exceeds amount of Rs. 50 lakhs beyond or more, and hence initiated re-assessment proceedings. The assessee has replied vide letter dated 24.03.2023 available in paper book Page No. 19 stating that the cash deposits during the year was Rs.26,72,500/- and not as listed in the show-cause notice. Finally, it was also noticed that Ld. AO made an addition for Rs. 26,72,500/- only while framing the draft Assessment Order. In these circumstances, we find the Ld. AO has erred in reopening the assessment without adhering to the time limit to the issue of notice under section 149 of the Act. For the sake of reference, Section 149 of the Act is reproduced below: -

*“149. Time limit for notice.— (1) No notice under section 148 shall be issued for the relevant assessment year,-*

*(a) if three years have elapsed from the end of the relevant assessment year, unless the case falls under clause (b);*

*(b) if three years, but not more than ten years, have elapsed from the end of the relevant assessment year unless the Assessing Officer has in his possession books of account or other documents or evidence which reveal that the income chargeable to tax, represented in the form of—*

*(i) an asset;*

*(ii) expenditure in respect of a transaction or in relation to an event or occasion; or*

*(iii) an entry or entries in the books of account,*

*which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more:*

**8.** From the plain reading of section 149(1)(b) of the Act, it is clear that unless the Assessing officer has in his possession of any documents or evidences which reveal that the income chargeable to tax represented in the form of asset which has escaped assessment amounts to or likely to amount to exceed Rs. 50 lakhs or more, reassessment proceedings cannot be initiated. In the instant case, no such documentary evidences were placed by the Ld. AO except by relying on the NMS data. Ld. AO failed to consider the objections of the assessee furnished in response to the show-cause notice under section 148A(b) of the Act. Finally, the Ld.AO made an addition of Rs. 26,72,500/- which is below the limit prescribed under section 149(1)(b) of the Act. In these circumstance, we are of the considered view that Ld. AO has exceeded his jurisdiction while reopening the assessment under section 148 of the Act and hence the Assessment Order passed under section 147 r.w.s 144C(13) of

the Act is void-ab-initio. Since the legal issue is adjudicated in favor of assessee, adjudication of issue on merits is merely academic.

9. In the result, appeal of the assessee is allowed.

Order pronounced in the open court on 09<sup>th</sup> 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 : **Nanneboyina Kalyan Chakravarthy**  
C/o. C.R. HemanthKumar  
H.No 9-14-4/7, Flat No. 7  
SowbhagyaApartments  
CBM Compound, VIP Road  
Andhra Pradesh – 530003
2. राजस्व/ The Revenue : **Income Tax Officer**  
**Ward International Taxation**  
CR Building, 1<sup>st</sup> Floor Annex  
M.G. Road, Vijayawada  
Andhra Pradesh – 520002
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