

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम

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

(HYBRID HEARING)

**श्री रवीश सूद, न्यायिक सदस्य एवं श्री एस बालाकृष्णन, लेखा सदस्य के समक्ष
BEFORE SHRI RAVISH SOOD, HON'BLE JUDICIAL MEMBER**

&

SHRI S BALAKRISHNAN, HON'BLE ACCOUNTANT MEMBER

**आयकर अपीलसं./I.T.A.No.251/VIZ/2025
(निर्धारण वर्ष/ Assessment Year: 2015-16)**

Vaka Ghanta Nageswararao 4-82-A, Gullapalli Goudapalem, Cherukapalli Mandal Guntur – 522309 Andhra Pradesh [PAN:AFJPN4315H] (अपीलधर्मी/Appellant)	Vs.	Income Tax Officer-Ward – 1 Tenali -522201 Andhra Pradesh (प्रत्यर्धी/Respondent)
--	------------	--

करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri Malladi Muralidhar, CA
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Dr.Aparna Villuri, Sr. AR
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	02.07.2025
घोषणा की तारीख/Date of Pronouncement	:	10.07.2025

आदेश /ORDER

PER SHRI S BALAKRISHNAN, ACCOUNTANT MEMBER:

1. This appeal is filed by the assessee against 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/250/2024-25/1073993641(1) dated 04.03.2025 for the A.Y.2015-16 arising out of the order passed under section 147 r.w.s. 144 of Income Tax Act, 1961 (in short 'Act') dated 08.12.2023.

2. Briefly stated facts of the case are that, assessee being an individual has not filed his return of income for the A.Y. 2015-16. Based on the information available with the Department it was noticed that assessee has made cash deposits of Rs.80,01,000/- and time deposits of Rs.20,00,000/- during the F.Y.2014-15. Therefore, the Ld. Assessing Officer [hereinafter in short "Ld.AO"] provided an opportunity to the assessee under section 148A(b) of the Act requesting explanation for the cash deposits. Considering the assessee's reply, Ld. AO passed order under section 148A(d) of the Act on 07.04.2022 considering it as a fit case for issuance of notice under section 148 of the Act for the A.Y. 2015-16. Thereafter, the case was reopened and notice under section 148 of the Act was issued on 07.04.2022 requesting the assessee to file the return of income. In response, assessee filed the return of income admitting an income of Rs.2,67,690/- on 05.05.2022. The case was later transferred to the Faceless Assessment Unit and thereafter notice under section 143(2) of the Act dated 19.06.2023 and notice under section 142(1) of the Act dated 21.06.2023 was issued and served on the assessee calling for details. Since the assessee did not comply with the notice, reminder letter dated 08.09.2023 was issued requesting for compliance. Further, show-cause notice was issued on

19.07.2023. In response, assessee in his reply dated 20.10.2023 submitted copy of bank statements, sale deeds and the computation statements. Considering the submissions made by the assessee, the Ld. AO being not satisfied with the replies proposed to add an amount of Rs. 40,00,000/- under section 69A of the Act as unexplained money and has also disallowed an amount of Rs.1,85,500/- being claim made by the assessee towards interest on borrowed capital and deduction claimed u/s. 80C of the Act.

3. On being aggrieved by the order of the Ld. AO, assessee filed an appeal before Ld. CIT(A). Ld. CIT(A) after carefully examining the submissions made by the assessee, dismissed the appeal of the assessee. Ld. CIT(A) did not adjudicate the Ground No. 2 raised by the assessee challenging the issuance of notice under section 148 of the Act considering the amendment to provisions of section 149(1)(b) of the Act.

4. On being aggrieved by the order of the Ld. CIT(A), assessee is in appeal before us by raising following grounds of appeal: -

“1. That the assessment order(s) of authorities below Ld AO as well as Ld CIT(A) were not as per the Facts of the case and as per the law applicable to the provisions, under the Income tax act, 1961.

2. That the grounds are mutually exclusive, distinct and independent and hence to be adjudicated separately, though grouped together.

3. The Ld CIT(A) has not adjudicated the grounds u/s 250(6) individually though they are mutually exclusive, has rejected summarily and hence the impugned order is liable to be quashed.

4. **Time barred show cause notices:**

The Ld AO is not justified in issuing show cause notices u/s 148A & 148 etcafter the same is time barred, being issued on 07.04.2022, hence the same are null & void and without jurisdiction, Last date to initiate notices being 31.03.2022.

It was held in *S.S. Gadgil v. Lal and Co.* 1964 53 ITR 231 (SC)

“The amended provisions will not re-instate jurisdiction to reassess the return which is otherwise time barred as per existing provisions for the relevant year.”

- Also held in *CIT v. Pushpak Enterprises* - 254 ITR 193 (Del.) (2002) No fresh conferment of jurisdiction by amendment unless law is express.

5. **ASSESSMENT ERRONEOUS BEING NOT CONDUCTED IN FACELESS MANNER:**

The Ld AO has violated the provisions of sec 144B / 148 / 147 and 151A which were mandatorily to be faceless as per Income tax act after 01.04.2021 as per Finance act 2021. Whereas the notices were sent by JAO, i.e ITO, Ward-1, Tenali, in non-faceless manner instead of FAO which need to be faceless as per the scheme framed by CBDT and u/s 151A, and hence the assessment is invalid & void ab-initio.

This was decided by Jurisdictional HC in Kankanala Ravindra reddy v ITO & Othrs, (2024)94 TR(A) 102 (Tel-HC): 2023 TaxPub(DT) 5828 (Tel-HC) dtd 14.09.2023]

6. **Wrong jurisdiction of Ld AO:**

6.1 That the Ld AO in fact had failed in not analysing the “Income escaped” during initial round of assessment i.e. sec 148A(d) nor PCCIT who gave approval u/s 151 instead of PCIT being below Rs. 50 Lakhs.

6.2 That the Ld PCCIT had erred in giving his approval without application of mind independently and has approved mechanically.

6.3 The Ld AO has erred in not providing a copy of approval received from higher authority.

7. Approval not obtained from higher authority for sec 148A(d)/148 Separately:

Ld AO by oversight did not obtain any approval from higher authority for passing an order sec 148A(d) separately, since the show cause notices u/s 148A were issued as per Finance Act' 2021 & not as per Finance Act'2022. This makes separate approval from higher authority is mandatory though notices were issued on 07.04.2022 and the Finance act 2022 cannot be applied for the case.

8. Unsigned show cause notice cannot provide a valid jurisdiction:

The Ld AO has erred in law & facts in initiating assessment by issuing an unsigned show cause notice u/s 148A(b) dated 20.03.2022 which is neither signed digitally nor manually, thereby making entire assessment void ab-initio for want of jurisdiction.

8.1. This is legally invalid and void which is a jurisdictional defect and cannot be cured and saved by sec 292B as was held in

- Ramesh Gandhi v. DCIT (ITAT, Delhi)

- Prakash Krishnavtar Bhardwaj v. ITO (Bom HC)

- ABCAUS 4174 (2024) (07) ITAT-Kol

8.2 The validity can be challenged at any stage – SC in Kiran singh vs. Chaman Paswan (AIR 1954 SC 340)

9. Time barred assessment order:

The Ld AO was not justified in passing the assessment order u/s 147 rws 144 on 08.12.2023, with respect to notices u/s 148A & 148, instead of 31.12.2022, whereas since the time limit allowed as per the provisions are 9 months u/s 153 for year ending 31.03.2022.

10. Pre-conditions of the provision of sec 69A were not met and charging section fails:

11.1 The Ld AO has erred in unearthed cash element where No cash was found physically with the assessee and what was triggered for initiation of proceedings was the cash deposited in Bank account, meaning thereby the same is nothing but “cash credit in the bank” and not cash, which were assumed to be “found” and blindly applied the provisions of sec 69A.

When no cash was found physically sec 69A cannot be applied too, as the provision uses the word “Found in possession”, hence applicable to search & seizure cases only. This case falls under sec 68 “Cash Credit” if at all to be assessed and not under sec 69A.

11.2 The Ld AO as well as Ld CIT(A) has erred in not verifying the copy of registered sale deed by denying it as “unregistered” and deeming it as “Unexplained” without any evidence though assessee has provided, makes the same fully explained and the assessee has discharged the onus. The burden of proving the same as wrong or unexplained was on both the authorities and both failed miserably without bringing on record any conclusive evidence except allegation. Therefore, Sec 69A is inapplicable to the case of assessee.

11. NO NEXUS WITH INFORMATION:

Ld AO had erred in formation of Belief was not based on relevant and cogent material, hence entire assessment fails and make it infructuous.

The Andhra Pradesh High Court in Tadikonda Ramulu v. AO - 1990 186 ITR 148 (AP)

12. Any other ground that may be urged at the time of hearing of the Appeal before your goodself.”

5. The primary ground raised by the assessee relates to the **jurisdictional validity of notice under section 148A(b) issued after the expiry of the prescribed limitation period and the absence of a valid signature** on the notice, rendering the proceedings void ab initio. At the outset, Ld. Authorised Representative [hereinafter “Ld.AR”] submitted that, firstly, to argue the legal ground raised by the assessee challenging the time barring of the notice’s issued under section 148 of the Act.

6. Ld. Authorised Representative [hereinafter “Ld.AR”] submitted that notice under section 148A(b) dated 20.03.2022 was issued without any

signature on the notice. He therefore pleaded that since the notice did not contain any manual signature or digital signature, it is not valid in law. Further he also submitted that after passing the order under section 148A(d) of the Act notice under section 148 of the Act was issued on 07.04.2022 for the A.Y.2015-16 wherein the limitation expires on 31.03.2022 as per section 149(1)(b) of the unamended provisions. On this issue, Ld.AR placed heavy reliance on the decision of the Co-ordinate Bench in the case of Mukaesh Kumar Bhawarlal Jain v. National Faceless Assessment Centre in ITA No. 6695/MUM/2024 dated 06.06.2025 and ACIT v. Manish Financial in ITA No. 5055/MUM/2024 dated 02.12.2024. Ld.AR also contested that as held by the Hon'ble Supreme Court in the case of UOI v. Rajeev Bansal (Civil Appeal No. 8629 of 2024) that the relaxation under Taxation and Other laws (in short "TOLA") are not applicable for the A.Y. 2015-16 and are applicable in the case where the time limit for issuing notices expired on 20.03.2020 or before 31.03.2021. Further Ld.AR also submitted that the time limit for notice issued under the unamended provisions under section 149 of the Act expired on 31.03.2022 i.e., six years from the end of the relevant assessment year where the escaped assessment amounts to or is likely to amount to one lakh rupees or more for that year. He therefore pleaded that the notice under section 148 dated 07.04.2022 is barred by limitation and hence the consequent reassessment proceedings are bad in law.

7. Per contra, Ld. Departmental Representative [hereinafter in short “Ld.DR”] submitted that non-signing of the notice is merely technical and curable. This technical reason cannot be the ground for considering the validity of the assessment order. Further he also stated that assessee has also participated in the proceedings before the Revenue Authorities. He also further stated that since the escaped income was considered above Rs.50 lakhs by the Ld. AO, hence notice cannot be considered as invalid.

8. Countering the argument of the Ld. DR, Ld.AR submitted that Ld. AO has erroneously added Rs. 40 lakhs twice while computing the income escaping assessment. However, while passing the assessment order he has upheld the addition of Rs.40 lakhs only. He therefore submitted that the escaped income is not above Rs.50 lakhs or not equivalent to Rs.50 lakhs, he pleaded that the notice issued by the Ld. AO under section 148 of the Act cannot be considered as valid.

9. We have heard both the sides and perused the material available on record including the case laws cited by the Ld.AR. It is not in dispute that the date of the order u/s 148A(d) is **07.04.2022** and that of the consequential section 148 notice is also dated post 31.03.2022. In the instant case the notice under section 148 was issued on 07.04.2022 for the A.Y. 2015-16. It is the contention of the assessee that the said notice is barred by limitation as per the first proviso of the unamended proviso to section 149(1)(b) of the Act which has been

confirmed by the Hon'ble Supreme Court in the case of UOI v. Rajeev Bansal (supra). The Hon'ble Supreme Court in the case of UOI v. Rajeev Bansal (supra) held as follows: -

“19. Mr N Venkataraman, learned Additional Solicitor General of India, made the following submissions on behalf of the Revenue:

*(a) to (e)***

(f). The Revenue concedes that for the assessment year 2015-16, all notices issued on or after 1 April 2021 will have to be dropped as they will not fall for completion during the period prescribed under TOLA;

46. The ingredients of the proviso could be broken down for analysis as follows:

(i) no notice under section 148 of the new regime can be issued at any time for an assessment year beginning on or before 1 April 2021;

(ii) if it is barred at the time when the notice is sought to be issued because of the "time limits specified under the provisions of" 149(1)(b) of the old regime."

10. The first proviso of section 149(1)(b) prescribed under section 149(1)(a) of the old regime continues to exist for the A.Y. 2021-2022 and before. Consequently, notice under section 148 of the Act as per amended provisions cannot be issued for the period beyond six years from the end of the relevant assessment year has expired at the time of issuance of notice. In the instant case, the time limit of six years expires on 31.03.2022 and the notice u/s 148 issued on 07.04.2022 is not valid notice for the re assessment proceedings. From the observations of the Hon'ble Supreme Court and also by the

Co-ordinate Bench of the Tribunal, it is clear that for the purpose of checking of the validity of the notices issued under section 148 of the Act under the new regime for the A.Y. 2021-2022 or prior years is whether the period of six years has expired at the time of issuance of such notice as per the unamended section to determine the validity of the notice under section 148 of the Act under the amended section. In the assessee's case, the period of six years expires on 31.03.2022 and therefore notice dated 07.04.2022 under section 148 of the Act for the A.Y. 2015-16 is invalid and barred by limitation. In view of the above findings and in light of binding judicial precedents, we hold that the reassessment proceedings initiated for AY 2015-16 are **without jurisdiction**, and hence the notice issued under section 148 and subsequent proceedings are **quashed**. Accordingly, the assessment completed under section 147 of the Act is liable to quashed. Thus the ground raised by the assessee is allowed.

11. Ld.AR did not press any other grounds raised in the appeal and hence we dismiss the other grounds as not pressed.

12. In the result, appeal filed by the assessee is allowed.

Order pronounced in the open court on 10th July, 2025.

Sd/-

(रवीश सूद)

(RAVISH SOOD)

न्यायिक सदस्य/JUDICIAL MEMBER

Dated: 10.07.2025

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 : **Vaka Ghanta Nageswararao**
4-82-A, Gullapalli
Goudapalem, Cherukapalli Mandal
Guntur – 522309
Andhra Pradesh
2. राजस्व/ The Revenue : **Income Tax Officer-Ward – 1**
Tenali -522201
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