

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

श्री विजय पाल राव, उपाध्यक्ष, एवं श्री एस बालाकृष्णन, लेखा सदस्य के समक्ष
BEFORE SHRI VIJAY PAL RAO, HON'BLE VICE PRESIDENT

&

SHRI S BALAKRISHNAN, HON'BLE ACCOUNTANT MEMBER

आयकर अपीलसं./I.T.A.No.188/VIZ/2025
(निर्धारण वर्ष/ Assessment Year: 2015-16)

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| Nimmagadda Muralidhar D.No. 3-123 Samisragudem Village Near ZPH High School Nidadavole Mandal West Godavari District Andhra Pradesh [PAN:ANBPN7016M] (अपीलधर्मी/Appellant) | Vs. | Income Tax Officer-Ward – 1 Income Tax Office Aayakar Bhavan Sajjapuram, Tanuku – 534211 Andhra Pradesh (प्रत्यर्थी/Respondent) |
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| करदाता का प्रतिनिधित्व/ Assessee Represented by | : | Shri GVN Hari, Advocate |
| राजस्व का प्रतिनिधित्व/ Department Represented by | : | Dr.AparnaVilluri, Sr. AR |
| सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing | : | 15.07.2025 |
| घोषणा की तारीख/Date of Pronouncement | : | 25.07.2025 |

आदेश /O R D E R

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/250/2024-25/1072753795(1) dated 31.03.2025 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 23.02.2024.

2. Briefly stated facts of the case are that, assessee being an individual has not filed his return of income under section 139 of the Act 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.83,19,100/- in the HDFC Bank Limited during the F.Y.2014-15. Therefore, the Ld. Assessing Officer [hereinafter in short “Ld.AO”] provided an opportunity to the assessee requesting explanation for the cash deposits. Ld. AO issued a show cause notice under section 148A(b) on 28.03.2022. Ld. AO passed order under section 148A(d) of the Act on 06.04.2022 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 06.04.2022 requesting the assessee to file the return of income. In response, assessee filed the return of income admitting an income of Rs.5,15,530/-. Subsequently, notice under section 143(2) of the Act and notice under section 142(1) of the Act was issued and served on the assessee calling for details. In response, assessee submitted his reply vide letter 12.12.2023. Considering the submissions made by the assessee, the Ld. AO being not satisfied with the replies, proposed to add an

amount of Rs.1,15,90,000/- under section 69A r.w.s. 115BBE of the Act as unexplained money and determined the total income of the assessee at Rs.1,21,05,530/-.

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.

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. The order of the learned Commissioner of Income Tax (Appeals) is contrary to the facts and also the law applicable to the facts of the case.

2. The learned Commissioner of Income Tax (Appeals) ought to have quashed the notice issued u/s 148 of the Act as barred by limitation.

3. Without prejudice to the above, the learned Commissioner of Income Tax (Appeals) ought to have quashed the notice u/s 148 of the Act as invalid and ought to have quashed the consequent re-assessment proceedings as void ab initio.

4. Without prejudice to Ground no.2 and 3, the learned Commissioner of Income Tax (Appeals) ought to have deleted the addition of Rs.1,15,90,000 u/s 69A of the Act made by the assessing officer towards unexplained deposits in the bank account of the appellant.

5. Any other ground that may be urged at the time of appeal hearing.”

5. The primary ground raised by the assessee relates to the **jurisdictional validity of notice issued under section 148 of the Act.** At the outset, Ld.Authorised Representative [hereinafter “Ld.AR”] submitted that, firstly, to

argue the legal ground raised by the assessee challenging the time baring 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) of the Act was issued on 28.03.2022. Further he also submitted that the reply to the show cause notice was sought on or before 04.04.2022. On this issue, Ld.AR placed heavy reliance on the decision of the Co-ordinate Bench in the case of Venkata Ramanaiah Koppurapu v. ITO in ITA No. 317/VIZ/2024 dated 14.02.2025.

7. He also submitted that the mandatory seven days was not allowed for replying to the show cause notice issued under section 148A(b) of the Act. He argued that various judicial pronouncements have held that terminal days should be excluded for the purpose of computation of seven days period. 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 06.04.2022 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 Babu Hasan Shaikh v. ITO in ITA No. 926/MUM/2025 dated 28.04.2025. 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 (Relaxation and Amendment of Certain Provisions)

Act, 2020 (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 06.04.2022 is barred by limitation and hence the consequent reassessment proceedings are bad in law.

8. Per contra, Ld. Departmental Representative [hereinafter in short “Ld.DR”] submitted that assessee also participated in the proceedings before the Revenue Authorities. She 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.

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 **06.04.2022** and that of the consequential notice under section 148 is also dated post 31.03.2022 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;

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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 under section 148 issued on 06.04.2022 which cannot be considered as a valid notice for the reassessment 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 06.04.2022 under section 148 of the Act for the A.Y. 2015-16 is invalid and barred by limitation.

11. Further, we observe that Ld. AO in the instant case, has issued a show-cause notice dated 28.03.2022 requiring the assessee to submit reply on or before 04.04.2022. This fact is not disputed by the Revenue. The time limits prescribed by Section 148A(b) of the Act is reproduced below for ready reference: -

*“148A (b) provide an opportunity of being heard to the assessee, by serving upon him a notice to show cause within such time, as may be specified in the notice, **being not less than seven days** and but not exceeding thirty days from the date on which such notice is issued, or such time, as may be extended by him on the basis of an application in this behalf, as to why a notice under section 148 should not be issued on the basis of information which suggests that income chargeable to tax has escaped assessment in his case for the relevant assessment year and results of enquiry conducted, if any, as per clause (a);”*

12. On bare reading of sub clause(b) of the Act, it is very clear that the assessee shall be served with show cause notice requesting him to show cause

by providing him not less than “7 days” but not exceeding 30 days from the date on which such notice is issued, or such time, as may be extended by him on the basis of an application in this behalf.

13. The mandatory period for the submission of reply by the assessee to the show-cause notice was also not provided to the assessee. The Hon’ble High Court of Rajasthan in the case of *Bijendra Singh v. PCIT* in Civil Writ Petition No. 6852 of 2022 dated 04.01.2024 stated that both the terminal days be excluded for the purpose of complying with the requirement of “not less than 7 days”. Similarly, the Hon’ble High Court of Karnataka in the case of *Rangaswamaiah Ravikumara v. ITO & others*, in Writ Petn. No. 14654 of 2024 dated 03.07.2024 held that the time afforded in the notice is less than seven days and hence prejudice is being caused due to non-adherence to the time period under section 148A(b) of the Act. Respectfully following the above decisions, we find that Ld. AO has not complied with the provisions of section 148A(b) of the Act.

14. 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 order dated 23.02.2024

completed under section 147 r.w.s. 144 r.w.s. 144B of the Act is liable to quashed. Thus, the ground raised by the assessee is allowed.

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

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

Order pronounced in the open court on 25th July, 2025.

Sd/-
(विजय पाल राव)
(VIJAY PAL RAO)

उपाध्यक्ष/VICE PRESIDENT

Dated:25.07.2025

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 : **Nimmagadda Muralidhar**
D.No. 3-123
Samisragudem Village
Near ZPH High School
Nidadavole Mandal
West Godavari District
Andhra Pradesh
2. राजस्व/ The Revenue : **Income Tax Officer-Ward – 1**
Income Tax Office
Aayakar Bhavan
Sajapuram, Tanuku – 534211
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