

**IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH, CHENNAI**

**BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT
& MS PADMAVATHY S, AM**

**I.T.A. No. 577/Chny/2025
(Assessment Year: 2018-19)**

Chokkalingam Thangavel, Aathithapuram Street, Vellamadam Post, Agasteeswaram, Kanyakumari, Tamil Nadu- 629305 PAN: AJUPC7902Q	Vs.	ITO, Ward-1, Income Tax Office, No. 379, Kottar-Parvathipuram Road, Ramavarmapuram, Nagercoil, Tamil Nadu-629001.
Appellant)	:	Respondent)

Appellant /Assessee by : Mr. T. Vasudevan, Advocate
Revenue / Respondent by : Dr. M. Sri Shanmuga Priya, JCIT
Date of Hearing : 24.07.2025
Date of Pronouncement : 25.07.2025

ORDER

Per Padmavathy S, AM:

This appeal by the assessee is against the order of the Commissioner of Income Tax (Appeals)/ National Faceless Appeal Centre, Delhi [in short 'CIT(A)'] dated 20.01.2025 passed under section 250 of the Income Tax Act, 1961 (the Act) for the Assessment Year (AY) 2018-19. The assessee raised the following grounds of appeal:

“1. The impugned order is illegal, opposed to the facts, contrary to law, without jurisdiction and against the principles of natural justice and therefore liable to be quashed.

2. The learned CIT (Appeals) erred in not deciding each ground of appeal with reference to the bank account statements available with the assessing officer.

3. The learned CIT (Appeals) ought to have seen that the assessing officer erred in reopening the assessment under section 148 on the basis of order under section 148A(d) dated 06.04.2022 passed with the approval of the PCIT, Madurai whereas the sanction was to be obtained from the PCCIT, as three years had elapsed from the end of the assessment year.

3.1 The learned CIT (Appeals) ought to have seen that the proviso to section 151 was inserted by Finance Act, 2023 and therefore not applicable as on 06.04.2022

4. The learned CIT (Appeals) ought to have seen that the assessing officer erred in adding Rs.87,80,658/- towards business income without noticing that the assessee was an agent for Hinduja Finance for distribution of vehicle loans

4.1 The learned CIT (Appeals) ought to have seen that the deposits through banking channels by RTGS were received from Hinduja Finance and distributed in cash after withdrawals by cash to the customers.

5. The learned CIT (Appeals) ought to have seen that the assessing officer erred in adding Rs.52,24,970/- under section 69A towards unexplained money without noticing that the cash deposits represented the collections from the customers, who had taken vehicle loans and transferred to Hinduja Finance through banking channels”

2. The assessee is an individual and did not file the return of income under section 139 of the Act for the reason that his income was below the maximum amount not chargeable to tax. The assessee is an agent of Hinduja Finance for distribution of vehicle loans to the customers in need of finance for purchase of vehicle. The Assessing Officer (AO) received an information that the assessee has made cash deposits of Rs. 52,24,970/- and has also withdrawn cash to the tune of Rs. 3,23,50,756/- in ICICI Bank Ltd. Since the assessee has not filed the return of income, the AO issued a show-cause notice under section 148A(b) of the Act.

Subsequently the AO passed an order under section 148A(d) dated 06.04.2022 after taking prior approval of PCIT, Madurai-1 and issued a notice under section 148 on 07.04.2022. The assessee filed return in response to notice under section 148 declaring a total income of Rs. 4,84,500/-. Since the assessee did not file any further response with regard to the deposit and withdrawal of cash, the AO completed the assessment under section 147 r.w.s. 144 of the Act assessing the income at Rs. 1,44,90,260/-. Aggrieved the assessee filed further appeal before the CIT(A). The assessee did not file any response to the notices issued by the CIT(A) and therefore the CIT(A) confirmed the addition made by the AO ex-parte. The assessee is in appeal before the Tribunal against the order of the CIT(A).

3. The Id. AR submitted that if the legal issue with regard to the notice under section 148 being issued without proper approval is adjudicated in favour of the assessee then the grounds raised with regard to merits would become academic. Therefore, we will first proceed to adjudicate the legal contentions of the assessee raised through ground no. 3 & 4.

4. We heard the parties and perused the material on record. The primary contention with regard to notice issued under section 148 is that the notice which is issued beyond the period of three years i.e. on 07.04.2022 should be approved by the Principle Chief Commissioner of Income Tax and not PCIT. In this regard reliance is placed on the decision of the Hon'ble Madras High Court in the case of M/s Core Logistic Company vs. ACIT (W.P. No. 18168 of 2023 dated 05.06.2025) where it has been held that

“6. In the present case, the issue is pertaining to the assessment year 2016-2017. The relevant law applicable for issuance of notice under Section 148 is as follows:

"148. Before making the assessment, reassessment or re-computation under section 147, and subject to the provisions of section 148A, the Assessing Officer shall serve on the assessee a notice, along with a copy of the order passed, if required, under clause (d) of section 148A, requiring him to furnish within such period, as may be specified in such notice, a return of his income or the income of any other person in respect of which he is assessable under this Act during the previous year corresponding to the relevant assessment year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed; and the provisions of this Act shall, so far as may be, apply accordingly as if such return were a return required to be furnished under section 139:

Provided that no notice under this section shall be issued unless there is information with the Assessing Officer which suggests that the income chargeable to tax has escaped assessment in the case of the assessee for the relevant assessment year and the Assessing Officer has obtained prior approval of the specified authority to issue such notice:

[Provided further that no such approval shall be required where the Assessing Officer, with the prior approval of the specified authority, has passed an order under clause (d) of section 148A to the effect that it is a fit case to issue a notice under this section.]

Explanation 1 For the purposes of this section and section 148A, the information with the Assessing Officer which suggests that the income chargeable to tax has escaped assessment means,-

*(1) any information [***] in the case of the assessee for the relevant assessment year in accordance with the risk management strategy formulated by the Board from time to time;*

(ii) any audit objection to the effect that the assessment in the case of the assessee for the relevant assessment year has not been made in accordance with the provisions of this Act, or

(iii) any information received under an agreement referred to in section 90 or section 90A of the Act; or

(iv) any information made available to the Assessing Officer under the scheme notified under section 135A or

(v) any information which requires action in consequence of the order of a Tribunal or a Court

Explanation 2 For the purposes of this section, where, -

(1) a search is initiated under section 132 or books of account, other documents or any assets are requisitioned under section 132A, on or after the 1st day of April, 2021, in the case of the assessee; or

*(ii) a survey is conducted under section 133A, other than under sub-section (24) 22[***] of that section, on or after the 1st day of April, 2021, in the case of the assessee; or*

(iii) the Assessing Officer is satisfied, with the prior approval of the Principal Commissioner or Commissioner, that any money, bullion, jewellery or other valuable article or thing, seized or requisitioned under section 132 or section 132A in case of any other person on or after the 1st day of April, 2021, belongs to 3 Copy the assessee; or

(iv) the Assessing Officer is satisfied, with the prior approval of Principal Commissioner or Commissioner, that any books of account or documents, seized or requisitioned under section 132 or section 132A in case of any other person on or after the 1st day of April, 2021, pertains or pertain to, or any information contained therein, relate to, the assessee,

the Assessing Officer shall be deemed to have information which suggests that the income chargeable to tax has escaped assessment in the case of the assessee [where] the search is initiated or books of account, other documents or any assets are requisitioned or survey is conducted in the case of the assessee or money, bullion, jewellery or other valuable article or thing or books of account or documents are seized or requisitioned in case of any other person.

Explanation 3. For the purposes of this section, specified authority means the specified authority referred to in section 151]."

7. A perusal of the above provision would show that, before issuing any notice under Section 148, the Assessing Officer has to obtain prior approval of the specified authority to issue such notice. The specified authority is also defined in explanation of the above provision. As per the above provision, specified authority is the authority who referred to in Section 151.

8. At this juncture, it would be relevant to extract the provision of Section 151, which is as follows:

"Specified authority for the purposes of Section 148 and Section 148A shall be:-

(i) Principal Commissioner or Principal Director or Commissioner or Director, if three years or less than three years have elapsed from the end of the relevant assessment year;

(ii) Principal Chief Commissioner or Principal Director General or Chief Commissioner or Director General, if more than three years have elapsed from the end of the relevant assessment year.

9. A perusal of Section 151(i) would show that, the specified authority for the purpose of issuing notice under Section 148 within a period of three years from the end of the relevant assessment year is, the Principal Commissioner or Principal Director or Commissioner or Director. Further, in terms of provision of Section 149, three year time period is fixed for issuance of 148 notice, in the event of the amount is below 50 lakhs. In the present case, the amount involved is Rs.3,65,09,748/-, which is more than 50 lakhs. 148 notice was issued on 25.07.2022, which is beyond the period of three years. So admittedly, the approval has to be obtained from the Principal Chief Commissioner or Principal Director General or Chief Commissioner or Director General as defined under Section 151(ii). But, in the present case, the approval was obtained from the Principal Commissioner in terms of Section 151(i) and no approval was obtained before issuance of 148 notice in terms of provision of Section 151(ii), which is mandatory. Therefore, the notice under Section 148 was issued in the present case in violation of provision of Section 151(ii) of the Income Tax Act. In view thereof, the initiation of proceedings itself is without any jurisdiction. Hence, the same is liable to be quashed.

10. Accordingly, the impugned proceedings of the 3rd respondent dated 30.05.2023 is hereby quashed."

5. From the perusal of AO's order, we notice that the AO has stated in the order that the notice under section 148 is issued with the prior approval of PCIT, Madurai-1. We further notice that the notice under section 148 is issued on 07.04.2022 which is beyond the period of three years from the relevant AY 2018-19. Therefore, in our

considered view the ratio laid down in the above decision of the Hon'ble Madras High Court would be applicable to assessee's case also. Respectfully following the above decision, we hold that the notice issued under section 148 beyond three years without obtaining the approval from the appropriate authority is invalid and the subsequent reassessment based on invalid notice is liable to be quashed.

6. Since we have held the legal contentions raised in favour of the assessee. The grounds with regard to merits of the issue have become academic nor warranting any adjudication.

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

Order pronounced in the open court on 25-07-2025.

Sd/-
(GEORGE GEORGE K)
Vice President

**SK, Sr. PS*

Sd/-
(PADMAVATHY S)
Accountant Member

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. DR, ITAT, Chennai
4. CIT, Chennai
5. Guard File