

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

**IN THE INCOME TAX APPELLATE TRIBUNAL  
VISA KHAPATNAM "DIVISION" 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.320/VIZ/2025**

**(निर्धारण वर्ष/ Assessment Year: 2015-16)**

<b>Samatham Gangadhara Rao</b> D.No. 19-22-5/3 Sunkara Brahmaiah Nagar, SBI Colony Bhimavaram – 534201  [PAN:AMYPS7071D] <b>(अपीलार्थी/ Appellant)</b>	<b>v.</b>	<b>Income Tax Officer – Ward – 1</b> Income Tax Office J.P. Road, Sivaraopet Bhimavaram – 534201 Andhra Pradesh  <b>(प्रत्यर्थी/ Respondent)</b>
---	-----------	--

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	:	05.08.2025
घोषणा की तारीख/Date of Pronouncement	:	28.08.2025

**आदेश /ORDER**

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

1. This appeal is filed by the assessee against order passed by the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal centre, Delhi [hereinafter in short "Ld.CIT(A)"] vide DIN & Order

No.ITBA/NFAC/S/250/2025-26/1075824138(1) dated 25.04.2025 for the A.Y.2015-16 arising out of order passed under section 147 of Income Tax Act, 1961 (in short 'Act') dated 01.03.2024.

2. Brief facts of the case are that, assessee being an individual and has not filed return of income for the assessment year under consideration. As per the information available with the department, the assessee has carried out the following transaction during the period relevant to A.Y.2015-16: -

<b>Nature of Transaction</b>	<b>Source/Bank Name</b>	<b>Account No.</b>	<b>Amount (Rs.)</b>
Cash deposits	HDFC Bank, Bhimavaram	10331690000784	17,08,500/-
Cash deposits	SBI, Bhimavaram		38,00,000/-
Cash deposits	SBI, Bhimavaram	62274516588	38,00,000/-

Thereafter, Ld. Assessing Officer [hereinafter in short "Ld. AO"] issued show-cause notice under section 148A of the Act on 26.03.2022 and order under section 148A(d) of the Act was passed on 19.04.2022. In response, assessee filed his return of income on 20.07.2022 declaring total income of Rs.21,460/-. Thereafter, statutory notices under section 143(2) and 142(1) of the Act were issued and served on the assessee. In response, assessee furnished its reply on 12.01.2024 and 20.01.2024. After considering the submissions of the assessee, Ld. AO proceeded to complete the assessment by observing that no satisfactory explanation and source of transaction in relation to Cash deposits of Rs.55,08,500/- during the year has been furnished by the assessee and accordingly treated the amount of Rs.55,08,500/- as un explained money and determined the income of the assessee at Rs.55,29,960/-.

3. On being aggrieved by the order of the Ld. AO, assessee filed an appeal before Ld. CIT(A). After considering the submissions of the assessee, Ld.CIT(A) dismissed the appeal of the assessee.

4. Being aggrieved by the order of the Ld. CIT(A), assessee filed an appeal before the Tribunal 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) is not justified in sustaining the addition of Rs.55,08,500 made by the assessing officer u/s 69A of the Act towards unexplained cash deposits in the bank accounts of the appellant.*

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

5. Assessee also raised the following additional grounds and prayed for admitting the same, since it is legal in nature and goes to the root of the matter.

*i. The Notice dated 19.04.2022 issued u/s. 148 of the Act is barred by limitation.*

*ii. The notice issued u/s. 148 of the Act issued on 19.04.2022 by the jurisdictional assessing officer is invalid in as much as the same was in contravention of the scheme notified u/s. 151A of the Act.”*

6. We admit the legal grounds raised by the assessee as additional grounds since it goes to the root of the matter.

7. At the outset, Ld. Authorised Representative [hereinafter “Ld.AR”] submitted that notice under section 148 of the Act for the A.Y.2015-16 was

issued on 19.04.2022 without following the procedure prescribed by the new provision inserted on 01.04.2021. She also submitted that notice under section 148 of the Act dated 19.04.2022 is barred by limitation as per the first proviso to section 149(1)(b) of the Act w.e.f 01.04.2021. Ld.AR pleaded that the legal ground raised by the assessee as above, shall first be addressed before adjudicating the other grounds raised on merits. On this issue, Ld.AR placed heavy reliance on the decision of Co-ordinate Bench in the case of Vaka ghanta Nageswararao v. ITO in ITA No. 251/VIZ/2025 dated 10.07.2025.

**8.** Ld.AR by relying on the decision of the Hon'ble Supreme Court in the case of Union of India & Ors. v. Ashish Agarwal [(2002) 444 ITR 0001 (SC)] submitted that the new procedure prescribed under section 148(A) under Finance Act, 2021 was not followed by the Ld. AO prior to issuance of notice under section 148 of the Act. She also submitted that after passing the order u/s.148(A)(d) of the Act, notice under section 148 of the act was issued on 19.04.2022 for the A.Y. 2015-16 wherein the limitation expires on 31.03.2022 as per section 149(1)(b) of the un-amended provisions. She further submitted that as held in the case of Union of India & Ors. v. Rajeev Bansal [(2024) 8 NYPCTR 1291 (SC)], that the relaxation under Taxation and other Laws (Relaxation of Certain Provisions) Ordinance, 2020 ("TOLA") are not applicable for the A.Y. 2015-16 and are applicable in the case for the time limit for issuing notices expired between 20.03.2020 and 31.03.2021. Further, the

Ld.AR also submitted that the time limit for the notice issued under the unamended provisions u/s. 149 of the Act expired on 31.03.2022 i.e., 6 years from the end of relevant assessment year for the escaped assessment amounts to or is likely to more than one lakh rupees or more for that year. She also referred to Question No. 5 raised before the Hon'ble Karnataka High Court in the case of CIT v. Micro Labs Ltd.,[(2012) 348 ITR 0075] wherein it was held that the matter cannot be remitted back to the file of the Ld. AO for passing fresh order of assessment by holding that the notice is invalid. She therefore pleaded that notice issued under section 148 of the Act dated 19.04.2022 is invalid and consequently assessment order passed in accordance with the invalid reassessment notice issued under section 148 of the Act is void-ab-initio.

**9.** Per contra, Ld. Departmental Representative [hereinafter in short "Ld.DR"] submitted that the mere procedural mistake cannot invalidate the assessment proceedings. She therefore prayed for upholding the order of the Ld.CIT(A).

**10.** We have heard the rival contentions, perused the material available on record including the case laws cited by the rival parties. It is an undisputed fact that the assessment was reopened by issuance of notice under section 148 of the Act dated 19.04.2022 which was digitally signed and issued on 19.04.2022. The grievance of the Ld.AR is since the notice has been issued after the commencement of new regime wherein the Finance Act, 2021 amended the

provisions of section 147 to 151 of the Act, the Ld. AO ought to have followed the procedure prescribed as per the new regime. She placed heavy reliance on the decision of the Hon'ble Supreme Court in the case of Union of India &Ors. v. Ashish Agarwal (supra) wherein the Hon'ble Supreme Court has directed vide its order dated 04.05.2022 to treat the notice issued under section 148 of the Act as per the amended provisions of the I.T.Act, r.w. section 3(1) of TOLA as deemed to be a show-cause notice under the provisions of section 148A of the Act. The Hon'ble Supreme Court concluded that section 3(1) of the TOLA overrides section 149 of the Act only to the extent of relaxing the time limit for issuance of the re-assessment notice under section 148 of the Act. TOLA will continue to apply to the Act after 01.04.2021 if any action or proceeding specified under the substituted provisions of the Act falls for completion between 20.03.2020 and 31.03.2021. In the instant case the time limit as per the provisions of unamended Act for the A.Y.2015-16 as the income is considered as escaping assessment of more than Rs.1,00,000/- the term expires on 31.03.2022.

**11.** Further, we also observe that in the case of Vaka Ghanta Nageswararao v. ITO in ITA No. 251/Viz/2025 the Co-ordinate Bench of Visakhapatnam held as follows: -

*“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.”*

12. Consistently following the view taken in ITA No. 251/VIZ/2025, we are of the view that re-assessment proceedings initiated for the A.Y. 2015-16 in the instant case are without jurisdiction and hence assessment completed u/s. 147 of the Act consequent to the notice issued u/s. 148 of the Act dated 19.04.2022 cannot be sustained and liable to be quashed. Since the legal grounds are adjudicated in favour of the assessee by quashing the re-assessment order the other grounds raised by the assessee on merits are not adjudicated.

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

Order pronounced in the open court on 28<sup>th</sup> August, 2025.

Sd/-

(रवीश सूद)

(RAVISH SOOD)

न्यायिक सदस्य/JUDICIAL MEMBER

Dated 28.08.2025

Giridhar, Sr.PS

Sd/-

(एस बालाकृष्णन)

(S. BALAKRISHNAN)

लेखा सदस्य/ACCOUNTANT MEMBER

आदेशकीप्रतिलिपिअग्रेषित/ Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee : **Samatham Gangadhara Rao**  
D.No. 19-22-5/3  
Sunkara Brahmaiah Nagar,  
SBI Colony  
Bhimavaram – 534201
2. राजस्व/ The Revenue : **Income Tax Officer – Ward – 1**  
Income Tax Office  
J.P. Road, Sivaraopet  
Bhimavaram – 534201  
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