

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 अपील सं./I.T.A.No.166/VIZ/2025

(निर्धारण वर्ष/ Assessment Year: 2015-16)

Sudharani Surisetty 29-2-34, Opposite Judge Court Main, Dabagardens Prakasharaopeta Visakhapatnam – 530020 Andhra Pradesh [PAN:CNBPS4046N]	v.	Income Tax Officer – Ward – 1 Flat No. 401, 4 th Floor Prathyakshar Bhawan MVP Double Road Visakhapatnam – 530020 Andhra Pradesh
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)

करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri C. Subrahmanyam, CA
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Dr. AparnaVilluri, Sr.AR
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	26.08.2025
घोषणा की तारीख/Date of Pronouncement	:	29.08.2025

आदेश /O R D E R

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/250/2024-25/1072688935(1)dated 29.01.2025 for the A.Y.2015-16 arising out of order passed under section 147 r.w.s. 144 of Income Tax Act, 1961 (in short 'Act') dated 12.03.2024.

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: -

Sl.NO.	Information Description	Sources	Amount (Rs.)
1.	Deposited cash of Rs.10,00,000/- or more in a saving bank account.	State Bank of India Corporate Centre	51,64,300/-

Thereafter, Ld. Assessing Officer [hereinafter in short "Ld. AO"] issued show-cause notice under section 148A(b) of the Act. In response, assessee furnished its reply and submitted that assessee is carrying out the activity of purchase and sale of vegetable & coconuts during the F.Y. 2014-15 and also derives agricultural income about Rs.60,000/- every year. However, did not submit any evidence in support of her claim. Being not satisfied with the submissions of the assessee, Ld. AO noticed that income that has escaped assessment representing in the form of Asset worth more than Rs. 5-50 lakhs has escaped assessment and therefore issued notice under section 148 of the Act on 06.04.2022. Assessee filed return of income on 08.04.2022 and declared total income at Rs.4,11,580/-. The return was considered as invalid by the Ld.AO. Thereafter, notice under section 142(1) of the Act was issued requiring

the assessee to submit certain details as called for. In response, on 02.02.2024 & 20.02.2024 assessee furnished part reply. 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.51,64,300/- during the year has been furnished by the assessee and accordingly treated the amount of Rs.51,64,300/- as un explained money and determined the income of the assessee at Rs.51,64,300/-.

3. On being aggrieved by the order of the Ld. AO, assessee filed an appeal before Ld. CIT(A). Before Ld. CIT(A), assessee has raised various grounds challenging the validity of the reassessment order. After considering the submissions of the assessee, Ld.CIT(A) partly allowed 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. That the order u/s 147 r.w.. 144 & 144B of the IT Act, 1961, dt.12.03.2024, as upheld by the Ld. CIT(A), NFAC, vide order u/s 250, dt. 29.01.2025, is bad in law and on facts.

2. The Ld, CIT(A) erred in dismissing the jurisdictional challenge to the Issuance of "notices u/ss, 148A, 148A(b), 148A(d), and 148 by the local JAO, contrary to the automated allocation framework prescribed by CBDT and the law.

3. The Ld. CIT(A), in disposing of the jurisdictional ground, placed «. reliance on the Hon'ble ITAT, Delhi'Bench, disregarding binding precedents from Hon'ble Telangana HC, Bombay HC, and Gauhati HC, thus failing to adhere to judicial discipline.

4. *The Ld. CIT(A) failed to appreciate that the alleged cash deposits of Rs. 49,46,434/- were inflated to Rs. 51,64,300/- due to erroneous inclusion of opening balance (Rs. 2,17,866/-), leading to incorrect application of section 149(1)(b).*

5. *Without prejudice to the above, the Ld. CIT(A), despite all evidences being on record, ought to have adjudicated on merits instead of remanding the matter to the AO.*

6. *The appellant prays that the order us 250 be quashed, and the additions sustained by the Ld. CIT(A) be deleted.”*

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 issued u/s 148 of the IT Act, 1961 dt. 06.04.2022 is barred by limitation in view of the provisions of section 149(1)(b) of the IT Act, 1961 read with the proviso thereto. Since the notice was issued beyond the prescribed time limit of six years, the subsequent assessment order passed u/s 143(3) r.w.s 144 and 144B of the IT Act 1961 Dt. 12.03.2024 is bad in law, void ab initio, and liable to be quashed.*

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 06.04.2022 without following the procedure prescribed by the new provision inserted on 01.04.2021. Ld.AR also submitted that notice under section 148 of the Act dated 06.04.2022 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 Nageswara Rao 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. Ld.AR 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 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 un-amended provisions. Ld.AR further submitted that as held in the case of Union of India &Ors. v. RajeevBansal [(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. Ld.AR also referred to Question No. 5 raisedbefore 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. Ld.AR therefore pleaded that notice issued under section 148 of the Act dated 06.04.2022 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. Ld. DR also made written submissions regarding the non-applicability of the period of limitation for the instant case. She therefore prayed for upholding the order of the Ld.CIT(A).

10. We have heard both the sides and perused the material available on record including the written submissions made by the Ld. DR. It is an undisputed fact that the assessment was reopened by issuance of notice under section 148 of the Act dated 06.04.2022. 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. Ld.AR 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 TOLAas 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 limitfor 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;

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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 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. Further, the Hon'ble Supreme Court in the case of Deepak Steel and Power Ltd., v. Central Board of Direct Taxes [2025] 174 taxmann.com 144 (SC)

held as follows: -

“4. The learned counsel appearing for the revenue with his usual fairness invited the attention of this Court to a three judge bench decision of this Court in Union of India and Ors. v. Rajeev Bansal, reported in 2024 SCC OnLine SC 2693, more particularly, paragraph 19(f) which reads thus:-

“19. (f) The Revenue concedes that for the assessment year 2015-2016, all notices issued on or after April 1, 2021 will have to be dropped as they will not fall for completion during the period prescribed under the Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020.”

5. As the revenue made a concession in the aforesaid decision that is for the assessment year 2015-2016, all notices issued on or after 1st April, 2021 will have to be dropped as they would not fall for completion during the period prescribed under the taxation and other laws (Relaxation and Amendment of certain Provisions Act, 2020). Nothing further is required to be adjudicated in this matter as the notices so far as the present litigation is concerned is dated 25.6.2021.

6. In view of the aforesaid, in such circumstances referred to above the original writ petition nos.2446 of 2023, 2543 of 2023 and 2544 of 2023 respectively filed before the High Court of Orissa at cuttack stands allowed.”

13. Respectfully following the decision of the Hon'ble Supreme Court in Deepak Steel and Power Ltd., v. Central Board of Direct Taxes (supra) and 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 06.04.2022 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.

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

Order pronounced in the open court on 29th August, 2025.

Sd/-
(रवीश सूद)

(RAVISH SOOD)

न्यायिकसदस्य/JUDICIAL MEMBER

Dated 29.08.2025

Giridhar, Sr.PS

Sd/-

(एसबालाकृष्णन)

(S. BALAKRISHNAN)

लेखासदस्य/ACCOUNTANT MEMBER

आदेशकी प्रतिलिपि अग्रेषित/ Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee : **Sudharani Surisetty**
29-2-34, Opposite Judge Court
Main, Dabagardens
Prakasharaopeta
Visakhapatnam – 530020
Andhra Pradesh
2. राजस्व/ The Revenue : **Income Tax Officer – Ward – 1**
Flat No. 401, 4th Floor
Prathyakshar Bhawan
MVP Double Road
Visakhapatnam – 530020
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