

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

श्री रवीश सूद, माननीय न्यायिक सदस्य एवं श्री एस बालाकृष्णन, माननीय लेखा सदस्य

**SHRI RAVISH SOOD, HON'BLE JUDICIAL MEMBER
AND
SHRI S BALAKRISHNAN HON'BLE ACCOUNTANT MEMBER**

आयकरअपीलसं./I.T.A. No. 331/Viz/2025
(निर्धारणवर्ष/ Assessment Year: 2015-16)

Narasimha Rao Jammigumpula, Guntur. PAN: AZUPJ4836C	vs.	Income Tax Officer, Ward-1, Narasaraopet, Guntur.
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)

करदाताकाप्रतिनिधित्व/ Assessee Represented by	:	Shri GVN Hari, Advocate
राजस्वकाप्रतिनिधित्व/ Department Represented by	:	Dr. Aparna Villuri, Sr. AR
सुनवाईसमाप्तहोनेकीतिथि/ Date of Conclusion of Hearing	:	02/09/2025
घोषणा की तारीख/ Date of Pronouncement	:	09/09/2025

ORDER

PER S. BALAKRISHNAN, AM:

This appeal filed by the assessee is against the order of the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi in DIN & Order No. ITBA/NFAC/S/250/2024-25/1075026443(1), dated 25/03/2025 arising out of the order passed U/s. 147 r.w.s 144 r.w.s 144B of the Income Tax Act, 1961 (the Act) for the Asst. Year 2015-16.

2. Brief facts of the case are that the assessee is an individual carrying on agricultural operations. The assessee had not filed the return of income for the AY 2015-16. As per the information available with the Department, the Ld. AO observed that the assessee had carried out the following transactions during the FY 2014-15 relevant to the AY 2015-16 ie., (i) Cash deposit of Rs. 48,19,517/- in the SB account of Andhra Bank; (ii) Cash deposit of Rs. 47,70,000/- in the SB account of Andhra Bank. Accordingly, on the basis of the information available, notice U/s. 148A(b) of the Act was issued on 21/03/2022 with the prior approval of the competent authority. Thereafter, notice U/s. 148 of the Act dated 07/04/2022 was issued electronically however, there was no response from the assessee. Subsequently, notice U/s. 142(1) of the Act dated 05/07/2023, 18/09/2023, 06/10/2023, 21/10/2023 and show cause notice dated 02/11/2023 and 15/11/2023 were issued and served on the assessee by the Ld. AO calling for complete details. Since there was no response, the Ld. AO completed the assessment ex-parte on the basis of the record. Thus, the Ld. AO treated the total cash deposits of Rs. 48,19,517/- as unexplained money U/s. 69A of the Act and completed the assessment and determined the assessed income at Rs. 48,19,517/- and passed the assessment order U/s. 147 r.w.s 144 r.w.s 144B of the Act, dated

28/11/2023. Aggrieved by the order of the Ld. AO, the assessee preferred an appeal before the Ld. CIT(A).

3. On appeal, the Ld. CIT(A) dismissed the appeal of the appeal by holding that the assessee has not been able to establish the nature and source of these cash deposits and hence the same have correctly been brought to tax U/s. 69A as unexplained money in the hands of the assessee. Thus, the addition of Rs. 48,19,517/- was confirmed by the Ld. CIT(A). Aggrieved by the order of the Ld. CIT(A), the assessee is in appeal before the Tribunal by raising the following revised grounds of appeal:

- “1. *The order of the Ld. CIT(A) is contrary to the facts and also the law applicable to the facts of the case.*
2. *The Ld. CIT(A) is not justified deciding the appeal without adequate opportunity to the appellant.*
3. *Without prejudice to the above, the Ld. CIT(A) ought to have held that the notice U/s. 148 was not properly served on the appellant and hence the reassessment proceedings are invalid.*
4. *Without prejudice to Ground No.2 and Ground No.3, the Ld. CIT(A) is not justified in sustaining the addition of Rs. 48,19,517/- made by the Assessing Officer U/s. 69A of the Act.*
5. *Any other ground that may be urged at the time of appeal hearing.”*

4. Further, the assessee has also raised Additional Grounds of appeal as under:

- “1. *The notice dated 07/04/2022 issued U/s. 148 of the Act is barred by limitation by virtue of 1st proviso to section 149(1) of the Act.*
2. *The notice U/s. 148A(b) issued on 21/03/2022 did not provide for clear 7 days of time to the appellant and hence the same is invalid and consequently the entire reassessment proceedings are liable to be quashed.*

3. *The notice dated 07/04/2022 issued U/s. 148 of the Act is invalid as the same was issued by the JAO but not the FAO, in contravention of the provisions of section 151A of the Act and hence the notice is liable to be quashed as invalid.”*

5. Since the additional legal grounds raised by the assessee challenge the validity of the assessment order, the Ld. AR pleaded that it goes to the root of the matter and prayed for adjudication of the same before deciding the case on merits.

6. We admit the legal grounds raised by the assessee as the same 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 07.04.2022 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 07.04.2022 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 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 un-amended provisions. Ld.AR 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. Ld.AR therefore pleaded that notice issued under section 148 of the Act dated 07.04.2022 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 both the sides and perused the material available on record as well as the orders of the Ld. Revenue Authorities and the written submissions made by the Ld. AR. It is an undisputed fact that the assessment was reopened by issuance of notice under section 148 of the Act dated 07.04.2022. 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 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;

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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 07.04.2022 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 09th September, 2025.

Sd/- (रवीश सूद) (RAVISH SOOD) न्यायिकसदस्य/JUDICIAL MEMBER	Sd/- (एस बालाकृष्णन) (S BALAKRISHNAN) लेखासदस्य/ACCOUNTANT MEMBER
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Visakhapatnam, dated 09.09.2025.

OKK/sps

आदेशकीप्रतिलिपिअग्रेषित/ Copy of the order forwarded to:-

1.	निर्धारिती/The Assessee	:	Narasimha Rao Jammigumpula, 5-242 Main Road, Pulipadu Gurazala, Guntur, Andhra Pradesh-522415.
2.	राजस्व/ The Revenue	:	Income Tax Officer, Ward-1, Narasaraopet, Guntur, Andhra Pradesh-522601.
3.	The Principal Commissioner of Income Tax,		
4.	विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण /DR,ITAT, Visakhapatnam.		
5.	The Commissioner of Income Tax		
6.	गार्डफ़ाईल / Guard file		

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam.