

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'B' Bench, Hyderabad

श्री विजय पाल राव, उपाध्यक्ष एवं श्री मधुसूदन सावडिया, लेखा सदस्य के समक्ष ।

BEFORE SHRI VIJAY PAL RAO, VICE PRESIDENT
AND
SHRI MADHUSUDAN SAWDIA, ACCOUNTANT MEMBER

आ.अपी.सं / **ITA No.344/Hyd/2025**

निर्धारण वर्ष / Assessment Year 2013-2014

M/s. Cognizance Constructions Private Limited, Hyderabad. PIN – 500 075. Telangana. PAN AADCC1366M	vs.	The Income Tax Officer, Ward-1(1), Hyderabad. Telangana.
(Appellant)		(Respondent)

निर्धारिती द्वारा / Assessee by:	CA Srinivas Maddury
राजस्व द्वारा / Revenue by::	Dr. Sachin Kumar, Sr. AR

सुनवाई की तारीख / Date of hearing:	13.10.2025
घोषणा की तारीख / Pronouncement:	15.10.2025

आदेश / ORDER

PER VIJAY PAL RAO, VICE PRESIDENT :

This appeal by the assessee is directed against the order dated 17.12.2024 of the learned CIT(A)-National Faceless Appeal Centre [in short "NFAC], Delhi, for the assessment year 2013-2014.

2. The assessee has raised the following grounds in the instant appeal :

1. *"The order under section 250 of the Income Tax Act, 1961 ("the Act") passed by the Learned Commissioner of Income Tax Appeals ("Ld. CIT(A)") is erroneous as per law and on facts of the case.*
2. *Ld. CIT (A) erred in remitting the proceedings to the file of assessing officer for fresh adjudication. The CIT (A) ought to have quashed the assessment order for non-service of notice under section 148.*
3. *LdAO/NFAC erred in completing the assessment under section 148 by passing of order under section 147 r.ws 144 read with section 1448, without service of notice under section 148 of the Act which is prerequisite before making the reassessment.*
4. *The Notice U/s 148 dated 30.03.2021 is issued by the Income Tax Officer Ward 1(1) Hyderabad. However, the assessment is taken up and completed by Additional/Joint/Deputy/Assistant Commissioner of Income Tax/Income-tax Officer, National Faceless Assessment Centre, which is against the laid legal principle that that assessment cannot be completed under borrowed satisfaction.*
5. *Ld.AO/NFAC erred in issue of notice under section 148 without satisfying the conditions prescribed under section 147 and section 148 of the IT Act. The Ld. AO erred in not providing the information which formed the basis of the reassessment.*
6. *Ld.AO/NFAC erred in making the addition of Rs.66,57,250 under section 69A in respect of cash deposits made in the bank account.*
7. *The Ld.AO/NFAC failed to appreciate the fact that the deposits have been duly recorded in the books of account maintained by the appellant.*

8. *Ld.AO/NFAC erred in making the addition of Rs.86,98,250 under the head "income from business and profession".*
 9. *The Ld.AO/NFAC erred in making entire receipts from business as an addition which is purely based on surmises and assumptions. The Ld. AO ought to have considered revenue and expense for the purpose of determining the income from "business or profession".*
 10. *The Ld.AO/NFAC erred in law and on facts of the case levying interest under Sections 234A and 2348 respectively.*
 11. *The Ld.AO/NFAC erred in law and on facts of the case by initiation of penalty proceedings under Section 271A, Section 271(1)(c), section 271(1)(b) and section 271F of the Act.*
 12. *Any other ground that may be urged at the time of hearing with the approval of Hon'ble Income Tax Appellate Tribunal."*
3. The assessee company did not file its return of income u/sec.139 of the Income Tax Act, 1961 [in short "the Act"] for the year under consideration. Based on the information regarding the cash deposit amounting to Rs.66,57,250/- as well as contract receipt of Rs.43,49,125/- the Assessing Officer reopened the assessment by issuing notice u/sec.148 dated 30.03.2021. However, there was no response on behalf of the assessee to the notice issued u/sec.148 of the Act as well as notices issued u/sec.142(1) of the Act. Accordingly, the Assessing Officer proceeded to frame the assessment as best Judgment assessment

u/sec.144 of the Income Tax Act, 1961. The Assessing Officer assessed the total income of the assessee comprising of business and professional income of Rs.86,98,250/- and income from other sources representing cash deposit in bank account of Rs.66,57,250/-, total amount of Rs.1,53,55,500/-.

4. The assessee challenged the action of the Assessing Officer before the learned CIT(A) and also raised the issue challenging the validity of notice u/sec.148 of the Act for want of a valid service of the said notice. The learned CIT(A) after considering the facts of the case that the assessee was suffering loss and was also struck-off from the Registrar of Companies record for non-compliance of the provisions of filing the annual return, has set-aside the assessment order and directed the Assessing Officer for fresh adjudication, after giving fair and reasonable opportunity of being heard to the assessee.

5. Before the Tribunal, the learned AR of the Assessee submitted that the learned CIT(A) has not adjudicated the legal issue raised by the assessee

challenging the validity of notice issued u/sec.148 for want of valid and proper service of the same. He has submitted that the Assessing Officer has stated to have issued notice dated 30.03.2021. However, no such notice was received by the assessee company and, therefore, there is no valid service of notice u/sec.148 of the Act. He has filed a consignment track report as generated from the website of the India Post and submitted that the consignment number as given by the Assessing Officer for the service of notice through speed-post is reported by the India Post website that the said consignment was booked on 04.04.2025 and not related to the assessee. A copy of the said report is filed by the learned AR of the Assessee. Thus, the learned AR has submitted that the notice u/sec.148 of the Act is not just a formality, but, a basic jurisdictional requirement for initiation of proceedings u/sec.147 of the Act. In the absence of a valid service of notice u/sec.148 of the Act, the proceedings initiated u/sec.147 of the Act are illegal and void and consequently, the order passed by the Assessing Officer is liable to be quashed. In support of his contention,

he has relied upon the Judgment of **Hon'ble Supreme Court in the case of Y. Narayana Chetty vs., ITO [1959] 35 ITR 388 (SC)** and submitted that the Hon'ble Supreme Court has held that "*the notice u/sec.34 of the I.T. Act, 1922, now u/sec.148 of the I.T. Act, 1961 cannot be regarded as a mere procedural requirement*". If the notice is not valid, then, the proceedings taken-up by the Assessing Officer would be illegal and void. He has relied upon the **Judgment of Hon'ble Delhi High Court in the case of CIT vs., Chetan Gupta [2015] 62 taxmann.com 249 (Del.)** and submitted that failure to serve notice u/sec.148 is jurisdictional and not merely a procedural requirement. Thus, the learned AR has submitted that the provisions of sec.292BB would not rescue the Assessing Officer from the mandatory requirement of a valid notice u/sec.148 of the Act to be issued and served on the assessee. The learned AR has also relied upon series of decisions on the point that in the absence of valid notice to be issued and served upon the assessee the re-assessment proceedings, are invalid and liable to be quashed. He has further submitted that the

assessee sought information under Right to Information Act [in short "RTI"], 2005 and in response to query of the assessee, the Assessing Officer provided the information that notice u/sec.148 of the Act was issued on 30.03.2021 and the same was claimed to have been sent to the assessee through speed-post and consignment number also given by the Assessing Officer on the copy of the information provided under the RTI Act. Thus, the learned AR has submitted that when the post office gives the report of consignment tracking that the alleged speed-post number pertain to a consignment of 2025 when there is no service of the notice u/sec.148 of the Act. He has further submitted that even if the said notice is uploaded on the ITBA Portal, then, until and unless the assessee login to the ITBA Portal and downloaded the notice, the same is not considered as served on the assessee. In support of this contention, the learned AR has relied upon the decision of **Hon'ble Delhi High Court in the case of Suman Jeet Agarwal vs., ITO [2022] 449 ITR 517 (Del.)** and submitted that in para nos.13 and 28.7 the Hon'ble Delhi High Court has held that

“in order for this mode of transmission i.e., uploading of the Notices in the E-filing portal of the assesseees, to be considered valid service, the Department should have issued a real time alert as provisioned in the Section 144(B)(6)(ii)(a) of the Act of 1961. Further, the time and date when the E-filing portal is accessed by the assessee, will be considered by the JAOs as the date of issuance of Notices.” Thus, the learned AR has submitted that in the absence of valid service of notice u/sec.148 of the act, the same is held to be invalid and *void abinitio*.

6. On the other hand, the learned DR has submitted that the Assessing Officer has issued notice well in-time by generating DIN number as mentioned in the notice itself which shows that the notice was issued on 30.03.2021 and the same was sent to the assessee vide speed post no.EN439501763IN. He has filed copy of the despatch register containing the details of as many as 52 speed-post consignments handed-over by the Assessing Officer to the post office on 31.03.2021. The learned DR has thus submitted that when the notice was issued on 30.03.2021

with DIN no. as generated on ITBA, therefore, the notice was very much available on the e-filing portal and assessee could have accessed the same. Further, the notice was also issued through speed post as per the despatch register. The report filed by the learned AR of the Assessee suggest that the same consignment no. may be repeated in the year 2025. He has also relied upon **Judgment of Hon'ble Delhi High Court in the case of Suman Jeet Agarwal (supra)** and submitted that the Hon'ble Delhi High Court has referred various categories/modes of service of the notices issued by the Assessing Officer from Category-A to Category-E and submitted that the present case of the assessee is falling in Category-C as well as Category-E, under which, the notice is digitally signed by the Assessing Officer and also sent manually through speed-post and, therefore, the date and time of despatch recorded in the despatch register will be considered as date of issue of notice. The learned DR thus submitted that when the notice was issued with digital signature of the Assessing Officer after generating DIN no. on 30.03.2021 and also despatched

on 31.03.2021, then, it is a valid notice issued by the Assessing Officer. The service of the same may be after 31.03.2021, but, the same is not relevant so far as the validity of the notice is concerned. The learned DR has further contended that once notice was duly despatched and out of control of the Assessing Officer before the expiry of due date of the notice, then, the time gap between the issuance and service by the postal department is not going to effect the validity of the notice issued in time.

7. We have considered rival submissions as well as the relevant material on record. The Assessing Officer passed the re-assessment order ex-parte when there was no response on behalf of the assessee to the notice issued u/sec.148 as well as notice u/sec.142(1) of the Income Tax Act, 1961. The assessee challenged the action of the Assessing Officer before the learned CIT(A) and also raised the issue of validity of notice u/sec.148 for want of valid service. The learned CIT(A), though, set-aside the assessment order and remanded the same for fresh adjudication however, the legal issues raised by the

assessee were not adjudicated by the learned CIT(A). The learned AR of the assessee submitted that the alleged speed-post sent by the Assessing Officer cannot be considered as valid service of notice issued u/sec.148 of the Act. It is pertinent to note that the Assessing Officer issued notice u/sec.148 of the Act dated 30.03.2021 which reads as under :

 GOVERNMENT OF INDIA MINISTRY OF FINANCE INCOME TAX DEPARTMENT OFFICE OF THE INCOME TAX OFFICER WARD 1(1),HYDERABAD			
To			
COGNIZANCE CONSTRUCTIONS PRIVATE LIMITED SRINIVASA NAGAR COLONY(EA - AMEERPET HYDERABAD 500036, Andhra Pradesh India			
PAN: AADCC1366M	AY: 2013-14	Dated 30/03/2021	DIN & Notice No ITBA/AST/S/148/2020-21/1031931754(1)
Notice Under Section 148 Of The Income Tax Act, 1961			
Sir/ Madam/ M/s. Whereas I have reasons to believe that your Income chargeable to Tax for the Assessment Year 2013-14 has escaped Assessment within the meaning of section 147 of the Income Tax Act, 1961. I, therefore, propose to assess/ re-assess the income/ loss for the said Assessment Year and I hereby require you to deliver to me within 15 days from the service of this notice, a return in the prescribed form for the said Assessment Year. This notice is being issued after obtaining the necessary satisfaction of the PCIT, Hyderabad-1			
			NORMALA DEVI PYNENI WARD 1(1),HYDERABAD
(In case the document is digitally signed please refer Digital Signature at the bottom of the page)			
Note: If digitally signed, the date of digital signature may be taken as date of document. J T TOWER, AC Guards, Masab Tank, HYDERABAD, Andhra Pradesh, 500004 Email: HYDERABAD.ITD1@INCOMETAX.GOV.IN			
* DIN Document Identification No.		This document is digitally signed Signer: NORMALA DEVI PYNENI Date: 30 March 2021 4:54 PM Location: HYDERABAD, India	

7.1. Thus, it is manifest from the record that the said notice was digitally signed by the Assessing Officer and also bearing the DIN no. Therefore, the preparation of the notice on 30.03.2021 and signed digitally by the Assessing Officer as on 30.03.2021 cannot be disputed. The only question arise as, whether the said notice was issued i.e., despatched by the Assessing Officer or not ? The learned DR has filed copy of the despatch register containing the details of the notice issued to the assessee. At Sl.No.46 of the said report dated 30.03.2021 bears the date of despatch on 31.03.2021 which also bears the signature of the postal person to whom all these envelopes under speed-post were handed-over. The learned AR disputed the said speed post with support of a consignment tracking report generated from the website of India Post which shows the consignment bearing the same no.EN439501763IN booked on 04.04.2025 and delivered on 07.04.2025. It appears *prima facie* from the report filed by the learned AR as well as the despatch register filed by the learned DR that the same consignment no. was given in the year 2021 as well as in the year 2025. However, the correct

facts could be explained only by the concerned post office. Further, it is also requires to be verified the corroborating fact about the status of the said speed post booked by the Assessing Officer for sending the notice u/sec.148 of the Act and the relevant information about the status of the said speed post can be provided by the post office. There is no quarrel if notice is despatched by the Assessing Officer and finally the post office has delivered the same, then, the notice will be treated as issued on the date of despatch when it was out of control of the Assessing Officer. The preparation of the notice, signing of the notice and generating the DIN no. on 30.03.2021 is not in dispute, but, the assessee has disputed only the service of the said notice sent through speed post which can be verified only from the record of the post office. The **Hon'ble Delhi High Court in the case of Suman Jeet Agarwal (supra)** while dealing an identical issue has observed in para nos.28.7 to 31.5 as under :

“28.7. We hold that, in order for this mode of transmission ie. uploading of the Notices in the E-filing portal of the assesseees, to be considered valid service, the Department should have

issued a real time alert as provisioned in the aforementioned Section 144(B)(6)(7)(a) of the Act of 1961. Since, the prescribed mode of service is not followed it is akin to no due despatch of Notices, therefore it cannot be said that the Notices 1 were validly issued.

28.8. However, since the assesseees in the present case did become aware of the Notices later and the assessment proceedings in their cases are still pending, we are not inclined to quash these Notices.

28.9. It has come on record that the ITBA records the time and date when the E-filing portal is accessed by the assessee, so the first date on which the Notices were accessed by the assesseees is duly available. This date will be considered by the JAOs as the date of issuance of Notices by the JAOs.

Illustratively, in W.P. (C) 13888 of 2021 the Notice dated 31st March 2021 was never served on the assessee, Instead the assessee claims that he became aware of the same on 23rd November, 2021 while checking his E-filing portal, the JAO is directed to verify the date on which the Notice was first viewed by the assessee, and consider the same as the date of issuance.

Regarding Notices sent to unrelated e-mail addresses

29. In a few cases, which do not fall in the categories 'A to E' as noted above, the Notices dated 31st March, 2021 were issued by the ITBA e-mail Software system to unrelated e-mail addresses which has no concern with the petitioner-assessee. In those facts, the Department cannot be permitted to contend that there was due despatch of Notice. For constituting 'due despatch', notice should be issued to the e-mail addresses duly recognized in rule 127, sub-rule 2(b) (i) to (iv), which reads as under :-

"Rule 127, sub-rule 2(b) (i) to (iv)

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(b) for communications delivered or transmitted electronically -

- (i) e-mail address available in the income-tax return furnished by the addressee to which the communication relates; or*
- (ii) the e-mail address available in the last income-tax return furnished by the addressee; or*
- (iii) in the case of addressee being a company, e-mail address of the company as available on the website of Ministry of Corporate Affairs; or*
- (iv) any e-mail address made available by the addressee to the income-tax authority or any person authorised by such income-tax authority."*

30. *Additionally, it is a settled position of law that the notice under section 148 of the Act of 1961 must be served in accordance with the procedure established by law, to the correct addressee, otherwise the reassessment proceedings would be invalid in law. Chetan Gupta (supra). The issuance of e-mail attaching electronic notice to an unrelated e-mail address does not constitute as due despatch and therefore, the Notices cannot be said to have been issued on 31st March, 2021. However, in each of these matters, since an authenticated copy of the notice was placed on the registered account of the assessee on the E-filing portal, as that is how the petitioners learnt about the notices, these notices will be held to have been issued on the date on which the Notices were first viewed by the assesseees on their E-filing portal.*

31. For the reasons and principles that we have laid down, we dispose of these Writ Petitions with the following directions :

31.1. Category 'A': The Notices falling under category 'A', which were digitally signed on or after 1st of April, 2021, are held to bear the date on which the said Notices were digitally signed and not 31st March 2021. The said petitions are disposed of with the direction that the said Notices are to be considered as show-cause notices under section 148A (b) of the Act as per the directions of the apex Court in the Ashish Agarwal (supra) judgment.

31.2. Category 'B': The Notices falling under category 'B' which were sent through the registered e-mail ID of the respective JAOs, though not digitally signed are held to be valid. The said petitions are disposed of with the direction to the JAOs to verify and determine the date and time of its despatch as recorded in the ITBA portal in accordance with the law laid down in this judgment as the date of issuance. If the date and time of despatch recorded is on or after 1st of April, 2021, the Notices are to be considered as show-cause-notices under section 148A (b) as per the directions of the apex Court in the Ashish Agarwal (supra) judgment.

31.3. Category 'C': The petitions challenging Notices falling under category 'C' which were digitally signed on 31st of March 2021, are disposed of with the direction to the JAOs to verify and determine the date and time of despatch as recorded in the ITBA portal in accordance with the law laid down in this judgment as the late of issuance. If the date and time of despatch recorded is on or after 1st of April, 2021, the Notices are to be considered as

show-cause-notices under section 148A (b) as per the directions of the apex Court in the Ashish Agarwal (supru) judgment.

31.4. *Category D: The petitions challenging Notices falling under category 'D' which were only uploaded in the E-filing portal of the assesseees without any real time alert, are disposed of with the direction to the JAOS to determine the date and time when the assesseees viewed the Notices in the E-filing portal, as recorded in the ITBA portal and conclude such date as the date of issuance in accordance with the law laid down in this judgment. If such date of issuance is determined to be on or after 1st of April 2021, the Notices will be construed as issued under section 148A (b) of the Act of 1961 as per the Ashish Agarwal (supra) judgment.*

31.5. *Category E: The petitions challenging Notices falling under category 'E' which were manually despatched, are disposed of with the direction to the JAOs to determine in accordance with the law laid down in this judgment, the date and time when the Notices were delivered to the post office for despatch and consider the same as date of issuance. If the date and time of despatch recorded is on or after 1st of April, 2021, the Notices are to be construed as show-cause-notices under section 148A (b) as per the directions of the apex Court in the Ashish Agarwal (supra) judgment.”*

7.2. Therefore, in para-31.3 the Hon'ble Delhi High Court has observed that the JAO to verify and determine the date and time of despatch as recorded in the ITBA portal in accordance with law laid down in that Judgment and

further in para 31.5, in case of notice were sent manually through speed post, the JAO to determine the issue of notice as per the date and time when the notice were delivered to post office for despatch. Therefore, the relevant date and time, is the delivery of the notice to the post office for despatch and not the actual service effected on the assessee. The learned CIT(A) has remanded the matter back to the Assessing Officer in para 5.4 of the impugned order as under :

“5.4. Under the circumstances, it is claimed that the AO issued the notices as well as the order to the appellant through the email ID: raj rangasai@gmail.com on 14.03.2022 and the aforesaid email ID pertained to the accountant who had left the company during Covid period i.e. in June 2020. The appellant submitted that there was no physical service of the notices/ Orders and due to the aforementioned reasons, the appellant submitted that it was never aware of the proceedings instituted against it. Therefore, in the interest of natural justice, I deem it fit and proper to set aside the assessment order u/s 147/144 of the Act dated 14.03.2022 for fresh adjudication. Needless to say, the AO must allow a fair and reasonable opportunity to the appellant of being heard before making a fresh assessment. At the same time the appellant is directed to comply with the hearing notices as and when called for through submission of relevant documents/ evidences before the AO. The appeal is thus decided

on this preliminary issue without going into the merits of the Grounds of appeal.”

7.3. It is clear from the impugned order that the matter on merit was remanded by the learned CIT(A) to the Assessing Officer for fresh adjudication, therefore, this issue of validity of issue of notice u/sec.148 of the Act is also remanded to the record of the Assessing Officer for proper verification and examination of the record and facts to ascertain the date and time of delivery of this notice to the post office for despatch of service to the assessee. Accordingly, the Assessing Officer is directed to consider this issue in light of Judgment of **Hon’ble Delhi High Court in the case of Suman Jeet Agarwal (surpa)**.

8. The other issues raised by the assessee in this appeal are already remanded by the learned CIT(A) to the Assessing Officer for fresh adjudication. Therefore, we do not find any reason to interfere with the order of the learned CIT(A) to the extent of remanding of the other issues.

9. In the result, appeal of the Assessee is allowed for statistical purposes.

Order pronounced in the open Court on 15th October, 2025.

Sd/-
[MADHUSUDAN SAWDIA]
ACCOUNTANT MEMBER

Sd/-
[VIJAY PAL RAO]
VICE PRESIDENT

Hyderabad, Dated 15th October, 2025

VBP

Copy to :

1.	M/s. Cognizance Constructions Private Limited, Villa # 137, Legend Chimes, Gandipet X Road, Kokapet, Hyderabad – 500 075. Telangana.
2.	The Income Tax Officer, Ward-1(1), Hyderabad.
3.	Pr. CIT, Hyderabad.
4.	DR, ITAT “B” Bench, Hyderabad.
5.	Guard file.

BY ORDER,

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