

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Visakhapatnam Bench, Visakhapatnam

Before Shri Ravish Sood, Judicial Member
and
Shri Balakrishnan S., Accountant Member

आ.अपी.सं /ITA No.280/Viz/2025
(निर्धारण वर्ष/Assessment Year:2018-19)

Shakir Mohmmad, Visakhapatnam. PAN: CFFPM2965E	Vs.	Income Tax Officer, Ward-2(5), Visakhapatnam.
(Appellant)		(Respondent)
निर्धारिती द्वारा/Assessee by:	Shri GVN Hari, Advocate	
राजस्व द्वारा/Revenue by:	Dr. Aparna Villuri, Sr. AR	
सुनवाई की तारीख/Date of Hearing:	02/12/2025	
घोषणा की तारीख/Date of Pronouncement:	05/12/2025	

आदेश / ORDER

PER. RAVISH SOOD, JM :

The present appeal filed by the assessee is directed against the order passed by the Commissioner of Income Tax, National Faceless Appeal Centre, Delhi, dated 05/022025, which in turn arises from the order passed by the Assessing Officer (for short, "AO") under Section 147 r.w.s 144 of the Income-tax Act, 1961 (for short, "Act"), dated 25/03/2023, for the Assessment Year 2018-19. The assessee has

assailed the impugned order of the CIT(Appeals) on the following grounds of appeal before us.

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) ought to have adjudicated Ground no.2 raised against the validity of notice issued u/s 148 of the Act and ought to have quashed the notice issued u/s 148 of the Act as invalid and the consequent reassessment proceedings as void ab initio.
3. The learned Commissioner of Income Tax (Appeals) is not justified in sustaining the addition of Rs.1,10,49,650 u/s 69A of the Act by treating the cash deposits in the bank account as unexplained.
4. The learned Commissioner of Income Tax (Appeals) ought to have held that the rate of profit adopted @ 8% by the assessing officer while estimating income from business is on higher side.
5. Any other ground that may be urged at the time of appeal hearing."

2. Apart from that, the assessee has raised the following additional ground of appeal which reads, as under:

"The notice dt.21.03.2022 issued u/s 148A(b) is invalid in as much as the assessing officer gave only 6 days of time to the appellant, which is less than the stipulated period of 7 clear days and consequently the notice u/s 148 and the entire reassessment proceedings are liable to be quashed as void-ab-initio."

3. As the assessee by raising the additional ground of appeal is seeking our indulgence for adjudicating an issue which is purely legal and would not require looking any further beyond the facts available on record, therefore, we have no hesitation in admitting the same.

4. Succinctly stated, the AO based on information that the assessee during the subject year had made cash deposits (including through bearer cheque) of Rs.1,10,50,650/- in his current account but had not

filed his return of income for the year under consideration, i.e., AY 2018-19, initiated proceedings under section 148A of the Act. Order under section 148A(d) of the Act, dated 31/03/2022 was passed by the Income Tax Officer, Ward-3(1), Visakhapatnam, i.e., the Jurisdictional Assessing Officer (JAO). Thereafter, the JAO issued notice under section 148 of the Act, dated 31/03/2022.

5. Thereafter, the AO vide his order passed under section 147 r.w.s 144 of the Act, dated 25/03/2023 in absence of any plausible explanation regarding the nature and source of cash deposits of Rs. 1,10,49,650/- treated the same as having been sourced out of the assessee's unexplained money under section 69A of the Act. Also, the AO treating the other credits of Rs.81,000/- in the bank account of the assessee as the sale proceeds of his business estimated the consequential income @ 8% i.e., Rs.6,480/-. Accordingly, the AO vide his order passed under section 147 r.w.s 144 of the Act, dated 25/03/2023 determined the income of the assessee at Rs.1,10,56,130/-.

6. Aggrieved, the assessee carried the matter in appeal before the CIT(A) but without success.

7. The assessee being aggrieved with the order of the CIT(A) has carried the matter in appeal before us.

8. Sri GVN Hari, Advocate, the Learned Authorized Representative (for short, "Ld. AR") for the assessee, at the threshold of hearing of the appeal submitted that though the assessee vide a specific "ground of appeal No.2" had assailed the validity of the notice issued under section 148 of the Act, dated 31/03/2022 before the CIT(A), but the latter had failed to deal with and adjudicate the same. Also, the Ld. AR submitted that the assessee in the course of hearing of the appeal had vide his written submissions specifically challenged the validity of the notice under section 148 of the Act, dated 31/03/2022 that was issued by the ITO, Ward-3(1), Visakhapatnam, i.e., the JAO, inter alia, on the ground that the same was not in accordance with law as the Faceless Scheme of Assessment had come into force w.e.f 29/03/2022 and all the notices thereafter were required to be issued by the Faceless Assessment Unit, but the CIT(A) despite the fact that the assessee in support of his contention had relied upon the judgment of the Hon'ble Jurisdictional High Court of Telangana in the case of Kankanala Ravindra Reddy vs. ITO (2023) 156 taxmann.com 178 (Tel. HC) had brushed aside the same and failed to deal with the said material aspect while disposing of the appeal. The Ld. AR to buttress his contention had taken us through the relevant extracts of the CIT(A) wherein the latter had culled out the written submissions filed by the assessee before him.

9. Per contra, Dr. Aparna Villuri, the Learned Senior Departmental Representative (for short, "Ld. Sr.AR") relied upon the orders of the lower authorities.

10. We have thoughtfully considered the contentions of the Learned Authorized Representatives of both parties in the backdrop of the orders of the lower authorities.

11. Admittedly, it is a matter of fact discernible from the record that the assessee had vide the grounds of appeal No.2 r.w the written submissions that were filed before the CIT(A), assailed the validity of the notice issued under section 148 of the Act, dated 31/03/2022, inter alia, for the reason that the same was not issued by the Faceless Assessing Officer (FAO) as was mandatorily required pursuant to the Faceless re-assessment scheme as was made available on the statute w.e.f 29/03/2022, and had in support of his contention relied upon the judgment of the Hon'ble High Court of Telangana in the case of Kankanala Ravindra Reddy vs. ITO (supra). However, we find that the CIT(A) had most arbitrarily brushed aside the specific contention that was raised by the assessee before him, wherein the validity of the assessment framed by the AO vide order under section 147 r.w.s 144 of the Act, dated 25/03/2023 in absence of a valid notice under section 148

of the Act was assailed before him. Considering all the facts involved in the present case, we are of a firm conviction that though the CIT(A) had grossly erred in law and facts of the case in addressing the aforesaid specific grounds of appeal that were raised by the assessee before him, though he had culled out the written submissions that were filed before him, but failed to address and adjudicate the said issue, therefore, the mater in all fairness requires to be restored to his file with a specific direction to deal with and adjudicate the said ground of appeal No.2 as was raised by the assessee before him.

12. Resultantly, the appeal filed by the assessee is allowed for statistical purposes in terms of our aforesaid observations.

Order pronounced in the open court on 05th December, 2025.

Sd/- (BALAKRISHNAN S.) ACCOUNTANT MEMBER	Sd/- (RAVISH SOOD) JUDICIAL MEMBER
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Hyderabad,
Dated: 05th December, 2025
OKK / SPS

Copy to:

S.No	Addresses
1	Shakir Mohmmad, D.No.10-35-123, Valanda Yatakummari Palem, Bheemunipatnam, Visakhapatnam, Andhra Pradesh-531163.
2	Incomed Tax Officer, Ward-2(5), O/o. ITO, Infinity Towers, Sankaramatam Road, Visakhapatnam, Andhra Pradesh-530016.
3	The Pr. Commissioner of Income Tax, Visakhapatnam.
4	The DR, ITAT, Visakhapatnam Bench
5	Guard File

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ITAT, VISAKHAPATNAM