

आयकर अपीलीय न्यायाधिकरण में, हैदराबाद 'बी' बेंच, हैदराबाद
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad "B" Bench, Hyderabad

श्री विजय पाल राव, माननीय उपाध्यक्ष एवं श्री मंजूनाथ जी, माननीय लेखा सदस्य
SHRI VIJAY PAL RAO, HON'BLE VICE PRESIDENT
AND
SHRI MANJUNATHA G, HON'BLE ACCOUNTANT MEMBER

आयकरअपीलसं./I.T.A.No.1432/Hyd/2025
(निर्धारण वर्ष/ Assessment Year: 2015-16)

Chandini Duvvuri, R/o. Hyderabad. PAN : AYMPD9716A	Vs.	The Income Tax Officer, (International Taxation)-1, Hyderabad.
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)

करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri C. Siva Charan, C.A.
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Shri Ashuthosh Pradhan, Sr.A.R.
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	10.12.2025
घोषणा की तारीख/ Date of Pronouncement	:	12.12.2025

ORDER

PER MANJUNATHA G., A.M :

This appeal filed by the assessee is directed against the order of learned Commissioner of Income Tax (Appeals) – 10, Hyderabad, dated 13.05.2025, pertaining to the assessment year 2015-16.

2. The grounds raised by the assessee read as under :

"1. The order of the Commissioner of Income Tax (Appeals) -10, Hyderabad (CIT(A)) is erroneous on law and on facts of the case.

2. The CIT(A) erred in not considering the Ground Number 3. being "Notice issued by the Jurisdictional Assessing Officer is invalid and bad in law as it is in violation of Section 151A r.w.s. 144B raised in the appeal memo in Form No.35.

3. The CIT(A) ought not to have set aside the case back to the Assessing Officer without deciding the Ground Number 3. as adjudication of such ground would render the assessment void ab initio.

4. The CIT(A) ought to have considered that issue of Notice u/s 148A as well as u/s 148, by the jurisdictional officer would render the subsequent assessment null and void, as per ratio laid down by various Hon'ble High Courts.

5. The CIT(A) ought to have considered that issue of Notice u/s 148A as well as u/s 148, by the jurisdictional officer would render the subsequent assessment null and void, as per ratio laid down by Hon'ble Supreme Court in their latest case of Prakash Pandurang Patil in Special Leave Petition (Civil) Diary No.39689 of 2025.

6. Any other ground that may be raised during the appellate proceedings with the kind prior permission from Hon'ble Tribunal."

3. At the outset, there is a delay of 37 days in filing the present appeal before the Tribunal. The assessee has filed an affidavit explaining the reasons for the delay, wherein it was submitted that, the order of the Ld. CIT(A) dated 13.05.2025, setting aside the assessment order passed under Section 147 of the Income-tax Act, 1961 (for short "the Act") and restoring the matter to the file of the A.O. for fresh assessment, created confusion in the mind of the assessee as to whether an appeal needs to be filed before the

Tribunal for non-adjudication of one of the grounds raised before the Ld. CIT(A). The assessee, being a resident of USA, was under a bona fide belief that since the entire matter was set aside to the A.O., an appeal before the Tribunal may not be required. Subsequently, upon further consultation with the tax consultants, the assessee was advised that the issue relating to non-adjudication of a ground by the Ld. CIT(A) is independently appealable before the Hon'ble ITAT. This consultation process, coupled with the fact that the assessee resides abroad, resulted in the delay of 37 days in filing the appeal. It was submitted that, the delay was neither intentional nor deliberate, but occurred due to circumstances beyond the control of the assessee, and therefore, the delay may kindly be condoned in the interest of justice.

4. The learned Senior A.R. for the Revenue, on the other hand, did not strongly oppose the request for condonation of delay in view of the reasonable cause explained by the assessee.

5. We have heard both parties and perused the petition and affidavit filed by the assessee seeking condonation of delay of 37 days in filing the appeal before the Tribunal. We find that, the

reasons explained by the assessee appear to be genuine and bona fide, and constitute “reasonable cause”. The Hon'ble Supreme Court in the case of Collector, Land Acquisition Vs. MST. Katiji [1987] 167 ITR 471 (SC) has laid down guiding principles for condoning delay and emphasized that a liberal approach should be adopted so that meritorious matters are not thrown out on technical grounds. Following the principles laid down in MST. Katiji (supra), and considering the submissions of the assessee, we condone the delay of 37 days in filing the appeal and admit the appeal for adjudication.

6. The brief facts of the case are that, the assessee is an individual and a non-resident during the Financial Year 2014-15 relevant to the A.Y. 2015-16. As per information available on record through the Risk Management Strategy (RMS) of the Department, it was noticed that, during the relevant financial year, the assessee had undertaken certain financial transactions, namely: (i) time deposits aggregating to Rs. 55,98,000/- with State Bank of Hyderabad, Kapra Branch; (ii) interest income of Rs. 11,62,254/- reported under Section 194A; and (iii) payments made to non-residents amounting to Rs. 5,67,699/- reported under Section

195. Since the assessee had not filed the return of income under Section 139(1), the sources for the said deposits and interest receipts were not explained before the Department. Consequently, the A.O., after following due procedure prescribed under Section 148A, issued notice under Section 148 of the Act on 04.04.2022, with the prior approval of the competent authority. During the reassessment proceedings, several opportunities were provided through notices issued under Sections 142(1) and show-cause notices; however, the assessee did not respond or furnish any details. In view of the assessee's persistent non-compliance, the A.O. proceeded to complete the reassessment ex-parte under Section 144 r.w.s. 147 of the Act, and treated (i) the time deposits of Rs. 55,98,000/- as unexplained investment under Section 69 r.w.s. 115BBE, and (ii) the interest income of Rs. 17,29,953/- as income from other sources, thereby determining the total income at Rs. 73,27,953/-. The A.O. also initiated separate penalty proceedings under Section 271(1)(c) of the Act.

7. Aggrieved by the assessment order, the assessee preferred appeal before the Ld. CIT(A). Before the Ld. CIT(A), the assessee submitted that, she was unaware of the proceedings due to being

a non-resident and because the notices were not effectively accessed by her. It was submitted that, the alleged time deposits of Rs. 55,98,000/- did not pertain to the F.Y. 2014-15 and that no such fixed deposits were made during the year under consideration. The assessee further submitted that, the information relied upon by the A.O. was factually incorrect and that the assessment was completed without providing adequate opportunity of being heard. The assessee also challenged the validity of the reassessment proceedings on the ground that the notice was issued by an officer without jurisdiction, and that the notice issued under Section 148 was not in accordance with Section 151A r.w.s. 144B of the Act. It was further submitted that, she may be granted an opportunity to file her return of income and substantiate the source of the transactions by filing additional evidence during appellate proceedings.

8. The Ld. CIT(A), after considering the submissions of the assessee and material available on record, observed that, the assessment order was passed ex-parte due to non-compliance to statutory notices. The Ld. CIT(A) took note of the amendment to Section 251 of the Act brought in by the Finance Act, 2024, w.e.f.

01.10.2024, empowering the CIT(A) to set aside assessments passed under Section 144 of the Income-tax Act, 1961. Considering the fact that the reassessment was completed without participation of the assessee and in the interest of providing a fair opportunity, the Ld. CIT(A) set aside the assessment order passed under Section 147 r.w.s. 144 and restored the matter to the file of the A.O. for making a fresh assessment de novo, after providing adequate opportunity of being heard.

9. Aggrieved with the order of Ld. CIT(A), the assessee is now in appeal before the Tribunal.

10. The learned counsel for the assessee, submitted that, the Ld. CIT(A) erred in confirming the action of the JAO issuing notice under Section 148 of the Act, without having proper power to do so in view of the decision of the Hon'ble Telangana High Court in the case of Yashnu Yasavi Polucherla Vs. ITO, 179 taxmann.com 470, dated 16.10.2025, and the decision in the case of Deloitte Consulting India Pvt. Ltd. Vs. Assessment Unit, 178 taxmann.com 781. Therefore, he submitted that, the assessment order passed by the A.O. under Section 147 r.w.s. 144 consequent to the invalid

notice issued by the JAO is bad in law and liable to be quashed. Therefore, he submitted that, the assessment order passed by the A.O. should be quashed.

11. The learned Senior A.R. for the Revenue, on the other hand, fairly agreed that, the issue is now settled by the decision of Hon'ble High Court of Telangana in number of cases, including the decision relied upon by the learned counsel for the assessee. However, he further submitted that, the issue is now sub judice before the Hon'ble Supreme Court in SLPs, and the matter is pending for adjudication. Therefore, he submitted that, the Bench may decide the issue in accordance with the law, however the liberty may be given to the Revenue or the assessee to revive the appeal in case, the issue is settled in favour of the Revenue/assessee to decide the issues involved in the appeal on merits.

12. We have heard both parties, perused the material available on record, and had gone through the orders of the authorities below. We have also carefully considered the relevant case laws relied upon by the learned counsel for the assessee in support of his

arguments. We find that, the Hon'ble High Court of Telangana in the case of Deloitte Consulting India Pvt. Ltd. Vs. Assessment Unit (supra) has considered an identical issue of notice issued by the JAO instead of the Faceless Assessing Officer (FAO), and after considering the relevant provisions of the Act, and also various notifications issued by the CBDT as per Section 151A of the Act, held that, any notice issued under Section 148 of the Act, after 29.03.2022 by the JAO is without jurisdiction and consequently, the assessment order passed in pursuant to the said notice is illegal and cannot be sustained. A similar view has been taken by the Hon'ble High Court of Telangana in the case of Yashnu Yasavi Polucherla Vs. ITO (supra), where the Hon'ble High Court, by following its earlier decision in the case of Deloitte Consulting India Pvt. Ltd. Vs. Assessment Unit (supra) held that, the JAO does not have the power to issue notice under Section 148 after the introduction of the Faceless Assessment Scheme.

13. In the present case, as per the facts available on record, the A.O., i.e., ITO, Ward 9(1), Hyderabad, issued a notice under Section 148A(b) of the Act, dated 01.04.2022, which was followed by an order under Section 148A(d) of the Act, dated 04.04.2022 by

the very same A.O. and further issuance of notice under Section 148 of the Act, dated 04.04.2022 by the ITO, Ward 9(1), Hyderabad. Since the issue is covered by the jurisdictional High Court in the case of Yashnu Yasavi Polucherla Vs. ITO (supra) in our considered view, the assessment order passed by the JAO under Section 147 r.w.s. 144 of the Income-tax Act dated 15.05.2024, consequent to the notice under Section 148 of the Act, dated 04.04.2022 issued by the JAO, is without jurisdiction and cannot be sustained. Thus, we quash the order passed by the A.O. under Section 147 r.w.s. 144 of the Income-tax Act, 1961, dated 15.05.2024.

14. We further noted that, although the issue is now settled by the decisions of the jurisdictional High Court of Telangana in a number of cases, but fact remains that, the above issue is pending for adjudication before the Hon'ble Supreme Court in multiple SLPs filed by the Revenue against orders of various High Courts. We further noted that, both parties, i.e., the learned counsel for the assessee and the learned Senior A.R. for the Revenue, fairly agreed that, the decision rendered by the Hon'ble Supreme Court will be binding on both the parties, and in such cases, a liberty

may be given to either parties to revive the appeal, if necessary for adjudication on merits. Since the issue is now pending for adjudication before the Hon'ble Supreme Court, in our considered view, the A.O. is directed to give effect to the order of the Hon'ble Supreme Court as and when the judgment is delivered by the Hon'ble Supreme Court and pass consequential orders, if need arises. We further make it clear that, both parties are at liberty to restore this appeal, if necessary, in case the decision goes against the assessee or in favour of the Revenue to decide the issues involved in the appeal on merits. With these observations, we allow the appeal filed by the assessee.

15. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the Open Court on 12th December, 2025.

Sd/- श्री विजय पाल राव (VIJAY PAL RAO) उपाध्यक्ष / VICE PRESIDENT	Sd/- (मंजूनाथ जी) (MANJUNATHA G.) लेखा सदस्य/ACCOUNTANT MEMBER
--	---

Hyderabad, dated 12.12.2025.

TYNM/sps

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

1.	निर्धारिती/The Assessee	:	Chandini Duvvuri, Plot No.161, Defence Colony, Tirumalagiri, Sainikpuri, Hyderabad, Telangana – 500094.
2.	राजस्व/ The Revenue	:	The Income Tax Officer (International Taxation) – 1, Basheerbagh, Hyderabad.
3.	The Principal Commissioner of Income Tax, Hyderabad.		
4.	विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, हैदराबाद / DR, ITAT, Hyderabad		
5.	गार्डफ़ाईल / Guard file		

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Hyderabad