

**IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH : BANGALORE**

**BEFORE SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER
AND
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER**

ITA No. 2314/Bang/2024
Assessment Year : 2015-16

Smt. Shweta Gadgay, H No. 8-6-18, Nandi Nivas, Jai Prakesh Colony, Janwada Road, Bidar – 585 401. PAN: AUMPG5065B	Vs.	The Income Tax Officer, Ward – 1, Bidar.
APPELLANT		RESPONDENT

Assessee by	:	Shri Subramanya Bhat, CA
Revenue by	:	Shri Subramanian .S, JCIT-DR

Date of Hearing	:	24-09-2025
Date of Pronouncement	:	19-12-2025

ORDER

PER SOUNDARARAJAN K., JUDICIAL MEMBER

This is an appeal filed by the assessee challenging the order of the NFAC, Delhi dated 22/10/2024 in respect of the A.Y. 2015-16 and raised the following grounds:

“1) The order passed by the learned Commissioner of income tax (Appels) NFAC, u/s 250 of the Income Tax Act in so far as it is against the Appellant is opposed to law, weight of evidence, natural justice, probabilities, facts and circumstances of the Appellant's case.

2) The appellant denies herself liable to be assessed to a total income of Rs.2,69,41,649/- against the returned

income of Rs. 4,17,870/- on the facts and circumstances of the case.

3) The Learned CIT(A) failed to appreciate that the Assessing officer has passed order without considering the Appellant's response and order passed being totally against the principles of natural justice is arbitrary and unsustainable in law and thus is to be quashed and set aside on the facts and circumstances of the case.

4) The learned CIT(A) failed to appreciate that the cash deposits into the bank account relates to the Dairy business which is carried on by the Appellant along with her husband on the facts and circumstances of the case.

5) The learned CIT(A) failed to appreciate that the entire cash deposits into the Appellant's Bank Account of Rs. 2,17,26,200/- have been made out of Dairy sales and cash withdrawals hence cannot be treated as unexplained money in the hands of the Appellant on the facts and circumstances of the case.

6) The Learned CIT(A) failed to appreciate that Appellant was running a registered and approved Dairy farm and she was made cash deposit out of sales proceeds on daily basis on the facts and circumstances of the case

7) The learned Assessing Officer failed to appreciate that the cash deposits were made out of known sources and the provisions of section 69A were not attracted in the instant case, on the facts and circumstances of the case.

8) The appellant craves leave to add, alter, modify, delete or substitute any or all of the grounds, to file detailed written submissions and to file a paper book at the time of hearing the appeal.

9) In the view of the above and other grounds that may be urged at the time of the hearing of the appeal, the Appellant prays that the appeal may be allowed and appropriate relief may be granted in the interest of justice and equity.”

2. The brief facts of the case are that the assessee filed her return of income declaring an income from other sources and agricultural income and claimed the said income as exempt. The AO based on the cash deposits made into her savings bank account maintained with the DCC Bank, Bidar

has reopened the assessment u/s. 147 of the Act and therefore notice u/s. 148 was issued on 31/03/2021. The assessee also filed her ROI on 30/04/2021. Thereafter notice u/s. 142(1) was issued on 27/12/2021. The assessee filed her written submissions along with the copy of the bank statements but she had not uploaded the computation of income as well as documentary evidences and the source for the cash deposits. The assessee had simply filed an objection that they are running the cattle farm and the cash deposits are nothing but received from the sale of buffaloes and sale of buffalo milk and buffalo dung. The assessee also submitted that the cash withdrawals are for labour payments. Some withdrawals also made on behalf of the assessee by her farm labours for the purchase of fodder and feeds for buffaloes and for various incidental farm expenses. The assessee also submitted that there is no gain or profit earned from the cattle farming business and therefore there is no need to file any return of income. The AO had confirmed the said addition u/s. 69A of the Act since the assessee had not furnished any documentary evidence in support of her submissions. Apart from the said income, the assessee also earned income from other sources which was also added to the income of the assessee since the assessee had not furnished any documentary evidences. As against the said order, the assessee filed an appeal before the Ld.CIT(A). In the grounds of appeal, the assessee had challenged the assessment since the assessee was not able to file any response to the show cause notice issued since the portal had not allowed the assessee to file anything beyond 17:00 hours on 28/03/2022. The assessee also submitted that the cash deposits into the bank account are all earned from the dairy business which was carried out by her husband. Similarly, the assessee also disputed the addition made u/s. 69A of the Act insofar as the sum of Rs. 2,15,449/- is concerned. The assessee also relied on the various judgments as well as the orders of the Tribunal and contended that no proper opportunity has been granted to the assessee before passing the impugned order. The assessee also submitted various documents before the Ld.CIT(A). The Ld.CIT(A) had called for a remand report from the AO. In the said remand report, the AO had supported the order made u/s. 147 of the Act. The assessee filed her

response to the remand report and submitted that the reasons recorded for issuing the notice u/s. 148 may be furnished. Further, the assessee filed a response on 10/02/2022. The assessee during remand proceedings had filed various documents to show that they are earning income out of the cattle farming. The assessee also furnished the loan details availed during the year. Further, submissions were made disputing the remand report.

3. The Ld.CIT(A) had not accepted the ground that the order is against the principles of natural justice since the AO had given personal hearing and the assessee also furnished documents before the AO and therefore after granting a personal hearing, the Ld.CIT(A) had rejected the said grounds raised by the assessee. Insofar as the merits of the issue, the Ld.CIT(A) had not accepted the explanation offered by the assessee and confirmed the addition made u/s. 69A. The Ld.CIT(A) had deleted the addition of Rs 50 Lakhs made u/s. 69A is concerned, by accepting the contention of the assessee. Similarly, an addition of Rs. 2,15,449/- was also confirmed by the Ld.CIT(A).

4. As against the said order, the assessee has filed this appeal before this Tribunal.

5. At the time of hearing, the assessee filed the following additional grounds of appeal and submitted that the sanction for issuing notice u/s. 148 should not be obtained from the Joint Commissioner as per section 151 of the Act.

“1. The sanction taken by the learned Assessing officer under section 151 of the Income Tax Act is bad in law on the facts and circumstances of the case.

.2. The sanction for issuing a notice under Section 148 must be obtained from the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner. The Joint Commissioner is not the competent authority on the facts and circumstances of the case.

3. The appellant craves to add, alter, amend, substitute, change and delete any of the grounds of appeal.

4. For the above and other grounds that may be urged at the time of hearing of the appeal, the Appellant prays that the appeal may be allowed and justice rendered.”

6. The Ld.AR also made oral submissions that the order passed u/s. 151 of the Act by the Joint Commissioner is not a valid order since the said order does not contain the signature of the officer who has approved the same. The Ld.AR also filed the copy of the approval granted u/s. 151 of the Act which was received by the assessee under the RTI Act.

7. Apart from that, the Ld.AR also filed a paper book enclosing the various documents to show that the assessee and her husband is doing the business of dairy and earned income out of the said business which was deposited into her bank account. The Ld.AR also invited our attention to the Registration Certificate issued by the local panchayat, FSS certificate and also the photographs showing the business of dairy done by the assessee along with her husband. The Ld.AR also filed the copies of the confirmation letters received from the various farmers to support their case that their cattle feed was purchased from the said sellers for which the assessee had paid the amount to the said sellers. The Ld.AR also filed a declaration given by the Veterinary officer, Veterinary Dispensary saying that the net profit margin in the said business would be about 4.1% of the sales. The assessee also enclosed the report issued by the Department of Animal Husbandry and Veterinary Services, Bangalore for evaluating the milk incentive schemes in support of their case that the business was in the name of the assessee but actually carried on by her husband, to get the various incentives from the Government. The assessee also filed a synopsis and list of dates and a small paper book and another small paper book dated 12/06/2025. The assessee also relied on the Hon'ble Allahabad High Court judgment in the case of Vikas Gupta vs. Union of India reported in 448 ITR 1 to her legal proposition that the sanction letter issued u/s. 151 was to be signed by the authority before the issuance of notice u/s. 148 and therefore the reopening notices issued u/s. 148 is without jurisdiction. The

Ld.AR also relied on the order of the Hon'ble Mumbai Tribunal in the case of J Kumar Infraprojects Ltd. vs. DCIT reported in [2025] 176 taxmann.com 193 (Mumbai-Trib.) for the proposition that the sanction granted u/s. 151 without signing the same was invalid and therefore the AO had not assumed jurisdiction to issue notice u/s. 148. The Ld.AR prayed to consider the legal grounds raised by her and thereafter to consider the grounds on merits, if required.

8. The Ld.DR relied on the orders of the lower authorities and also filed a remand report dated 02/09/2025 and prayed to dismiss the appeal.

9. We have heard the arguments of both sides and perused the materials available on record.

10. We will first consider the legal grounds raised by the assessee.

11. In the remand report filed by the Ld DR, the AO also submitted that the assessee had not questioned the validity of the reassessment neither during the assessment proceedings nor at the time of proceedings before the Ld.CIT(A) and therefore now the said plea cannot be raised for the first time. We do not accept the said contention since the legal plea can be raised at any time.

12. The additional legal ground now raised by the assessee is that the approval order u/s. 151 was passed by the Joint Commissioner of Income Tax which is not in accordance with section 151 of the Act.

13. Section 151 which stood during the relevant period is extracted as below:

*“[Sanction for issue of notice
151. (1) No notice shall be issued under [section 148](#) by an Assessing Officer, after the expiry of a period of four years from the end of the relevant assessment year, unless the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner*

is satisfied, on the reasons recorded by the Assessing Officer, that it is a fit case for the issue of such notice.

(2) In a case other than a case falling under sub-section (1), no notice shall be issued under [section 148](#) by an Assessing Officer, who is below the rank of Joint Commissioner, unless the Joint Commissioner is satisfied, on the reasons recorded by such Assessing Officer, that it is a fit case for the issue of such notice.

(3) For the purposes of sub-section (1) and sub-section (2), the Principal Chief Commissioner or the Chief Commissioner or the Principal Commissioner or the Commissioner or the Joint Commissioner, as the case may be, being satisfied on the reasons recorded by the Assessing Officer about fitness of a case for the issue of notice under [section 148](#), need not issue such notice himself.]”

14. As seen from the above said provision, the Joint Commissioner has not been treated as a specified authority for the purpose of section 148 and 148A. Section 151(1) speaks about the approval if four years have elapsed from the end of the relevant assessment year. In the present case, the assessment year relates to 2015-16, the four year period would end on 31/03/2020 and therefore as per section 151(1) of the Act, the Joint Commissioner has no power to grant sanction to issue notice u/s. 148 of the Act. We have also perused the 148 notice issued by the AO which is dated 31/03/2021. Therefore, the notice was issued after a period of 4 years and therefore the specified authority is the Principal Chief Commissioner or the Chief Commissioner or Principal Commissioner or Commissioner. In the present case, the approval was granted by the Joint Commissioner and therefore the approval granted by him is ab-initio-void and therefore the AO had no jurisdiction to issue notice u/s. 148 of the Act based on the illegal approval granted u/s. 151 of the Act.

15. We have also considered the remand report given by the AO in which the AO had stated that plea was not raised during the assessment proceedings or before the appellate proceedings and therefore this could not be raised for the first time before this Tribunal. These are the legal grounds raised by the assessee which goes to the root of the matter and therefore the

legal grounds can be raised at any time even before this Tribunal and therefore we are not accepting the said argument made by the AO.

16. The another legal ground raised by the assessee is that the sanction order u/s. 151 was not signed by the authority and therefore the said order is bad in law. We have also perused the judgment of the Hon'ble Allahabad High Court cited supra by the assessee, in the said judgment, the Hon'ble Allahabad High Court has held as follows:

“29. In the present set of facts there was no valid satisfaction recorded by the by the Prescribed Authority under section 151 of the Act, 1961 when the Assessing Officer issued notice to the assesseees under section 148 of the Act, 1961. At the time when the notice under section 148 of the Act, 1961 was issued by the Assessing Officer to the petitioner there was no valid satisfaction recorded by the Prescribed Authority i.e. the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner. Subsequent to issuance of the notice under section 148 of the Act, 1961 by the Assessing Officer, the satisfaction under section 151 was digitally signed by the Prescribed Authority. Therefore, the point of time when the Assessing Officer issued notices under section 148, he was having no jurisdiction to issue the impugned notices under section 148 of the Act, 1961. Consequently the impugned notices issued by the Assessing Officer under section 148 of the Act, 1961 were without jurisdiction. The questions no. (a) and (b) are answered accordingly.”

17. In the Hon'ble Allahabad High Court judgment, it was seen that there was no signature in the approval order passed u/s. 151 of the Act and only after the AO had issued the notice u/s. 148 the digital signature of the approving authority was affixed and in that circumstances, the Hon'ble Allahabad High Court had held that the approval granted by the officer is not a valid one and therefore the AO has not assumed jurisdiction to issue notice u/s. 148 of the Act. In the case on hand, we find that the approval granted u/s. 151 of the Act was not at all signed by the authority and therefore it could not be treated as a valid approval granted u/s. 151 of the Act. In the above judgment, the Hon'ble Allahabad High Court had considered section 282A and Rule 127A and the provisions under

Information Technology Act, 2000 and arrived a conclusion that the approval order should be signed and thereafter it can be communicated to the assessee by paper or by electronic mode.

18. We are satisfied that the legal grounds raised by the assessee is sustainable and therefore the notice issued u/s. 148 and the subsequent proceedings u/s. 147 of the Act are all invalid in the eye of law. Since we are deciding the appeal on the legal grounds, we are not adjudicating the other grounds raised by the assessee on merits and we left it open to the assessee for raising the same at the appropriate stage. We, therefore allow the appeal filed by the assessee.

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

Order pronounced in the open court on 19th December, 2025.

Sd/-
(LAXMI PRASAD SAHU)
Accountant Member

Sd/-
(SOUNDARARAJAN K.)
Judicial Member

Bangalore,
Dated, the 19th December, 2025.
/MS /

Copy to:

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| 1. Appellant | 2. Respondent |
| 3. CIT | 4. DR, ITAT, Bangalore |
| 5. Guard file | 6. CIT(A) |

By order

Assistant Registrar,
ITAT, Bangalore