

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम

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

(HYBRID HEARING)

**श्री संदीप सिंह करहैल, न्यायिक सदस्य एवं श्री ओंकारेश्वर चिदारा लेखा सदस्य के समक्ष,
BEFORE SHRI SANDEEP SINGH KARHAIL, HON'BLE JUDICIAL MEMBER
&
SHRI OMKARESHWAR CHIDARA, HON'BLE ACCOUNTANT MEMBER**

**आयकर अपील सं./I.T.A. No. 567/VIZ/2025
(निर्धारण वर्ष/ Assessment Year:2017-18)**

Chandanam Sangaih & Son 7-159/47, Innaiah Gari Building Vinukonda Road Narasaraopeta, Guntur – 522601 Andhra Pradesh [PAN: AALFC8018M]	v.	Income Tax Officer – Ward - 1 Income Tax Office, 12-9-22/A Prakashnagar, Narsaraopeta Guntur – 522601 Andhra Pradesh
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)

करदाता का प्रतिनिधित्व / Assessee Represented by	:	Shri I. Kama Sastry, CA
राजस्व का प्रतिनिधित्व / Department Represented by	:	Dr. Aparna Villuri, Sr.AR
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	17.12.2025
घोषणा की तारीख/Date of Pronouncement	:	19.12.2025

आदेश /O R D E R

PER SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER:

1. The assessee has filed the present appeal against the impugned order dated 14.07.2025, passed under section 250 of the Income Tax Act, 1961 (in short

‘Act’) by the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal centre, Delhi [hereinafter in short “Ld.CIT(A)”], for the A.Y. 2017-18.

2. In this appeal, the assessee has raised the following grounds of appeal: -

“1. The order passed under section 147 r.w.s. 144 is null and void as the same is passed without issuing a notice under section 143(2) even though the assessee has filed a return of income in response to notice under section 148 dated 29.03.2021.

2. The notice under section 148 dated 29.03.2021 is invalid and bad in law as it is issued under the law existing upto 31.03.2021 without following the changed procedure effective from 01.04.2021 as the notice is actually despatched through speed post on 08.04.2021 and served on the assessee on 10.04.2021.

3. The Income-tax Officer, Ward-1, Narsaraopeta is not justified in estimating the income of the assessee at 8% of the total deposits in bank account during the financial year relevant to the assessment year amounting to Rs. 1,40,98,183.

4. The Income-tax Officer, Ward-1, Narsaraopeta is not justified in not allowing the interest on partners' capital and partners' remuneration from the income estimated

5. The Income-tax Officer, Ward-1, Narsaraopeta is not justified in computing the balance tax payable without giving credit to the taxes of Rs.57,486 and Interest of Rs.67,761 paid along with the return of income filed in response to notice under section 148

6. All the above grounds of appeal are mutually exclusive and without prejudice to one another.

7. The appellant craves leave to add to; alter; amend; modify or delete all or any of the above grounds of appeal.”

3. The assessee has also filed an application seeking admission of the following additional grounds of appeal, which are similar to Ground Nos. 1 and 2 raised in the main grounds: -

“1. The order passed under section 147 r.w.s. 144 is null and void as the same is passed without issuing a notice under section 143(2) even though the assessee has filed a return of income in response to notice under section 148 dated 29.03.2021.

2. The notice under section 148 dated 29.03.2021 is invalid and bad in law as it is issued under the law existing upto 31.03.2021 without following the changed procedure effective from 01.04.2021 as the notice is actually despatched through speed post on 08.04.2021 and served on the assessee on 10.04.2021.”

4. Since the issues raised by way of additional grounds are legal issues, which can be decided on the basis of material available on record, the same are admitted in view of the ratio laid down by the Hon’ble Supreme Court in the case of NTPC v. CIT, reported in [1998] 229 ITR 383 (SC).

5. During the hearing, Ld. Authorised Representative [hereinafter “Ld.AR”], at the outset, made his submissions in respect of Additional Ground No. 2. The Ld.AR submitted that the assessment proceedings, in the present case, were initiated pursuant to the notice dated 29.03.2021 issued under section 148 of the Act. The Ld.AR submitted that the said notice under section 148 of the Act was served to the assessee through postal delivery on 10.04.2021. In this regard, the Ld.AR placed reliance on the second paragraph of the assessment order, wherein it has been admitted that the notice dated 29.03.2021 issued under section 148 of the Act was served to the assessee on 10.04.2021 through postal delivery. The Ld.AR further submitted that the said notice was dispatched through speed post on 08.04.2021 and therefore 08.04.2021 constitutes the date of issuance of notice under section 148 of the Act. In this regard, the Ld.AR placed reliance upon the

decision of the Hon'ble Gujarat High Court in the case of Kanubhai M. Patel (HUF) v. Hiren Bhatt, reported in (2011) 334 ITR 25 (Guj). Thus, the Ld.AR submitted that since the notice under section 148 of the Act was issued on 08.04.2021 without following the amended provisions of sections 147 to 151 of the Act w.e.f. 01.04.2021, the said notice is invalid and bad in law.

6. On the other hand, Ld. Departmental Representative [hereinafter in short "Ld. DR"] submitted that the said notice under the provisions of the Act prior to the amendment by the Finance Act, 2021, w.e.f. 01.04.2021 was issued within the extended time as provided under the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 (in short "TOLA"), and therefore, the same is a valid notice.

7. We have considered the submissions of both sides and perused the material available on record. In the present case, there is no dispute regarding the fact that the assessment proceedings were initiated pursuant to the notice dated 29.03.2021 issued under section 148 of the Act on the basis of the information received in the AIMS module of ITBA, as the assessee did not file its return of income. From the perusal of the copy of the notice issued under section 148 of the Act, forming part of the Paper Book Page No. 1, we find that the said notice was signed by the Jurisdictional Assessing officer on 29.03.2021. It is an admitted fact that the said notice could not be sent to the assessee by e-mail, and it was ultimately served on

the assessee on 10.04.2021 by postal delivery. From the perusal of the Indian Post Track Consignment, a copy of which forms part of the Paper Book on Page No. 4, we find that the booking of the consignment was done on 08.04.2021 at 15:00:03 and the consignment was delivered to the assessee on 10.04.2021 at 17:06:22. For ready reference, this screenshot of the track consignment is reproduced as follows: -

The screenshot shows the Indian Post Track Consignment website interface. At the top, there are links for 'Sign In' and 'Register'. Below that, there are language options: 'A', 'ଓ', 'हिन्दी', and a search icon. The Indian Post logo is visible on the left, and the Government of India emblem is on the right. The breadcrumb trail reads 'You are here Home >> Track Consignment'. The main heading is 'Track Consignment' with a 'Quick help' link. A note states '* Indicates a required field.' Below this, the consignment number 'EN915285079IN' is entered, and a 'Track More' button is present. A table provides the following details:

Booked At	Booked On	Destination Pincode	Tariff	Article Type	Delivery Location	Delivery Confirmed On
Narasaraopet H.O	08/04/2021 15:00:03	522601	29.50	Inland Speed Post	Narasaraopet H.O	10/04/2021 17:06:22

Event Details For : EN915285079IN
Current Status : Item Delivery Confirmed

Date	Time	Office	Event
10/04/2021	17:06:22	Narasaraopet H.O	Item Delivery Confirmed
10/04/2021	09:31:35	Narasaraopet H.O	Out for Delivery
09/04/2021	17:23:23	Narasaraopet H.O	Item Onhold INSUFFICIENT ADDRESS
09/04/2021	09:26:53	Narasaraopet H.O	Out for Delivery
09/04/2021	07:45:09	Narasaraopet H.O	Item Received
08/04/2021	16:46:48	Narasaraopet H.O	Item Bagged
08/04/2021	15:00:03	Narasaraopet H.O	Item Booked

At the bottom of the page, there is a list of links: Home, About Us, Forms, Recruitments, Holidays, Feedback, Right To Information, Tenders India, Related sites, and Website Policies.

8. Thus, the issue arises as to what can be considered as the date of issuance of notice in such circumstances. We find that while considering the similar issue, in the case where the date of notice was different from the date on which it was dispatched to the taxpayer through postal delivery, the Hon'ble Gujarat High Court in the case of Kanubhai M. Patel (HUF) v. Hiren Bhatt (supra) held that it is not the date of signing of the notice but the date on which the said notice was actually handed over to the postal office for the purpose of booking for effective service on the assessee which constitutes the date of issue of the notice. The relevant findings of the Hon'ble Gujarat High Court, in the aforesaid decision, are reproduced as follows: -

“14. In the background of the aforesaid facts and contentions, the core issue that arises for consideration is as to when can the notice under section 148 of the Act be said to have been issued. In this context it would be necessary to examine the true import of the expression "shall be issued" as employed in section 149 of the Act.

15. The expression "issue" has been defined in Black's Law Dictionary to mean "To send forth; to emit; to promulgate; as, an officer issues orders, process issues from court. To put into circulation; as, the treasury issues notes. To send out, to send out officially; to deliver, for use, or authoritatively; to go forth as authoritative or binding. When used with reference to writs, process, and the like, the term is ordinarily construed as importing delivery to the proper person, or to the proper officer for service etc."

15.1 In P. Ramanathan Aiyer's Law Lexicon the word "issue" has been defined as follows:

"Issue. As a noun, the act of sending or causing to go forth; a moving out of any enclosed place; egress; the act of passing out; exit; egress or passage out (Worcester Dict.); the ultimate result or end.

As a verb, 'To issue' means to send out, to send out officially; to send forth; to put forth; to deliver, for use, or unauthoritatively: to put into circulation; to emit; to go out (Burrill); to go forth as a

authoritative or binding, to proceed or arise from; to proceed as from a source (Century Dict.)

Issue of Process. Going out of the hands of the clerk, expressed or implied, to be delivered to the Sheriff for service. A writ or notice is issued when it is put in proper form and placed in an officer's hands for service, at the time it becomes a perfected process.

Any process may be considered 'issued' if made out and placed in the hands of a person authorised to serve it, and with a bona fide intent to have it served."

16. *Thus, the expression to issue in the context of issuance of notices, writs and process, has been attributed the meaning, to send out; to place in the hands of the proper officer for service. The expression "shall be issued" as used in section 149 would therefore have to be read in the aforesaid context. In the present case, the impugned notices have been signed on 31-3-2010, whereas the same were sent to the speed post centre for booking only on 7-4-2010. Considering the definition of the word issue, it is apparent that merely signing the notices on 31-3-2010, cannot be equated with issuance of notice as contemplated under section 149 of the Act. The date of issue would be the date on which the same were handed over for service to the proper officer, which in the facts of the present case would be the date on which the said notices were actually handed over to the post office for the purpose of booking for the purpose of effecting service on the petitioners. Till the point of time the envelopes are properly stamped with adequate value of postal stamps, it cannot be stated that the process of issue is complete. In the facts of the present case, the impugned notices having been sent for booking to the Speed Post Centre only on 7-4-2010, the date of issue of the said notices would be 7-4-2010 and not 31-3-2010, as contended on behalf of the revenue. In the circumstances, impugned the notices under section 148 in relation to assessment year 2003-04, having been issued on 7-4-2010 which is clearly beyond the period of six years from the end of the relevant assessment year, are clearly barred by limitation and as such, cannot be sustained."*

9. No decision contrary to the aforesaid findings of the Hon'ble Gujarat High Court was brought on record by the Revenue before us. Accordingly, respectfully following the decision of the Hon'ble Gujarat High Court in Kanubhai M. Patel (HUF) v. Hiren Bhatt (supra), we are of the considered view that the date on which the notice was handed over to the post office for service to the assessee

constitute the date of notice issued under section 148 of the Act, which in the present case, as noted in the foregoing paragraphs, is 08.04.2021.

10. There is no dispute regarding the fact that w.e.f. 01.04.2021, the provisions of sections 147 to 151 of the Act were amended by the Finance Act, 2021, and a new regime of re-assessment proceedings was laid down by the statute. As per the assessee, since, in the present case, the notice was issued after 01.04.2021, the same has to comply with the new regime of re-assessment proceedings. Since the notice under section 148 of the Act did not comply with the said proceedings and was issued as per the old regime of re-assessment proceedings, which existed in the statute till 31.03.2021, it is the plea of the assessee that the said notice is bad in the eyes of law.

11. On the contrary, in order to support the notice issued under section 148 of the Act, the Revenue has placed reliance on the provisions of the TOLA and submitted that in all cases where, *inter alia*, time limit for issuance of such notice was due to expire between 20.03.2021 to 31.03.2021, the said time limit was extended to 30.06.2021, and accordingly, all the notices issued till 30.06.2021 as per the old regime of re-assessment proceedings are valid notices.

12. We find that the validity of the re-assessment notices issued by the Assessing Officers during the period beginning from 01.04.2021 and ending with 30.06.2021, i.e, within the extended time under TOLA and various notifications

issued thereunder as per the provisions of the Act prior to their amendment by the Finance Act, 2021 w.e.f. 01.04.2021, came up for consideration before the Hon'ble Supreme Court in the case of the UOI v. Ashish Agarwal, the Hon'ble Supreme Court in the aforesaid case vide its judgement dated 04.05.2022, reported in (2022) 444 ITR 1 (SC) held that these extended re-assessment notices issued under the old law shall be deemed to be a show-cause notices issued under section 148A(b) of the Act of the new law and directed the Assessing Officers to follow the procedure with respect to such notices.

13. We find that in order to implement the decision of the Hon'ble Supreme Court in the case of UOI v. Ashish Agarwal (supra), the Central Board of Direct Taxes (in short "CBDT") issued Instruction No.1 of 2022 on 11.05.2022 and clarified that this decision of the Hon'ble Supreme Court shall applies to all cases where extended re-assessment notices have been issued irrespective of the fact whether such notices have been challenged or not. Accordingly, in compliance with the direction of the Hon'ble Supreme Court in the aforesaid decision, the CBDT vide Instruction No.1 of 2022 laid down the following procedure to be followed by the Assessing Officers: -

"8.1 The procedure required to be followed by the Jurisdictional Assessing Officer/Assessing Officer, in compliance with the order of the Hon'ble Supreme Court, is as under:

◆ *The extended reassessment notices are deemed to be show cause notices under clause (b) of section 148A of the Act in accordance with the*

judgment of Hon'ble Supreme Court. Therefore, all requirement of new law prior to that show cause notice shall be deemed to have been complied with.

- ◆ *The Assessing Officer shall exclude cases as per clarification in paragraph 7.1 above.*
- ◆ *Within 30 days i.e. by 2nd June, 2022, the Assessing Officer shall provide to the assessee, in remaining cases, the information and material relied upon for issuance of extended reassessment notices.*
- ◆ *The assessee has two weeks to reply as to why a notice under section 148 of the Act should not be issued, on the basis of information which suggests that income chargeable to tax has escaped assessment in his case for the relevant assessment year. The time period of two weeks shall be counted from the date of last communication of information and material by the Assessing Officer to the assessee.*
- ◆ *In view of the observation of Hon'ble Supreme Court that all the defences of the new law are available to the assessee, if assessee makes a request by making an application that more time be given to him to file reply to the show cause notice, then such a request shall be considered by the Assessing Officer on merit and time may be extended by the Assessing Officer as provided in clause (b) of new section 148A of the Act.*
- ◆ *After receiving the reply, the Assessing Officer shall decide on the basis of material available on record including reply of the assessee, whether or not it is a fit case to issue a notice under section 148 of the Act. The Assessing Officer is required to pass an order under clause (d) of section 148A of the Act to that effect, with the prior approval of the specified authority of the new law. This order is required to be passed within one month from the end of the month in which the reply is received by him from the assessee. In case no such reply is furnished by the assessee, then the order is required to be passed within one month from the end of the month in which time or extended time allowed to furnish a reply expires.*
- ◆ *If it is a fit case to issue a notice under section 148 of the Act, the Assessing Officer shall serve on the assessee a notice under section 148 after obtaining the approval of the specified authority under section 151 of the new law. The copy of the order passed under clause (d) of section 148A of the Act shall also be served with the notice u/s 148.*
- ◆ *If it is not a fit case to issue a notice under section 148 of the Act, the order passed under clause (d) of section 148A to that effect shall be served on the assessee.”*

14. From the perusal of Para No. 8.1 of the CBDT's Instruction No.1/2022, dated 11.05.2022, it is evident that the CBDT directed all the Jurisdictional Assessing Officer / AO to treat the extended re-assessment notices as deemed show-cause notices under section 148A(b) of the Act in accordance with the judgement of the Hon'ble Supreme Court. Further, the Assessing Officers were directed to provide the assesseees with the information and material relied upon for the issuance of extended re-assessment notices within 30 days. It was also directed that two weeks' time be provided to the assessee to file its responses to the notices. The CBDT directed the Assessing officers that after receiving the reply, the Assessing Officer shall decide on the basis of the material available on record, including the reply of the assessee, whether or not, it is a fit case to issue a notice under section 148 of the Act and accordingly pass order under section 148A(d) of the Act with prior approval of the specified authority as per the new regime. It was further directed that if it is a fit case to issue a notice under section 148 of the Act, the Assessing Officer shall serve on the assessee a notice under section 148 of the Act after obtaining the approval of the specified authority under section 151 of the new law.

15. We find that in many cases, these directions were complied with by the Assessing Officers without any exception. However, in the present case, despite the notice under section 148 of the Act being issued on 08.04.2021 as per the old law, i.e., within the extended period as per TOLA, the Assessing Officer neither

complied with the decision of the Hon'ble Supreme Court in the case of UOI v. Ashish Agarwal (supra) nor complied with the detailed directions issued by the CBDT vide Instruction No.1 of 2022. Thus, we are of the considered view that once the notice under section 148 of the Act was dispatched and handed over to the postal authority after 01.04.2021, as in the present case on 08.04.2021, such notice can only be construed to be a show-cause notice under section 148A(b) of the Act as per the decision of the Hon'ble Supreme Court in the case of UOI v. Ashish Agarwal (supra). We find that the Hon'ble Delhi High Court reached similar conclusions in Suman Jeet Agarwal v. ITO, reported in (2022) 449 ITR 517 (Delhi). The relevant findings of the Hon'ble Delhi High Court are reproduced as follows: -

“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.”

16. Since, in the present case, the Ld. AO failed to take any steps in compliance with the decision of the Hon'ble Supreme Court in the case of UOI v. Ashish Agarwal (supra) and CBDT Instruction No.1 of 2022 after issuance of notice on 08.04.2021, which is nothing but a show-cause notice under section 148A(b) of the Act as per the decision of the Hon'ble Supreme Court in the case of UOI v.

Ashish Agarwal (supra), and neither passed the order under section 148A(d) of the Act nor issued notice under section 148 of the Act as per the new law, we are of the considered view that the assessment order dated 31.03.2022 under section 147 r.w.s. 144 was passed without the proper authority of law, as the Assessing Officer lacked the necessary jurisdiction for completing the assessment under section 147 of the Act. Accordingly, the assessment order dated 31.03.2022 passed under section 147 r.w.s. 144 of the Act is quashed.

17. Since the relief has been granted to the assessee on this short issue, the other grounds raised by the assessee on the jurisdiction as well as on merits are rendered academic and therefore are kept open.

18. In the result, the appeal by the assessee is allowed.

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

Sd/-
(ओंकारेश्वर चिदारा)
(OMKARESHWAR CHIDARA)
लेखा सदस्य /ACCOUNTANT MEMBER
Dated: 19.12.2025
Giridhar, Sr.PS

Sd/-
(संदीप सिंह करहैल)
(SANDEEP SINGH KARHAIL)
न्यायिक सदस्य/JUDICIAL MEMBER

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

1. निर्धारिती/ The Assessee : **Chandanam Sangaih & Son**
7-159/47, Innaiah Gari Building
Vinukonda Road
Narasaraopeta, Guntur – 522601
Andhra Pradesh
2. राजस्व / The Revenue : **Income Tax Officer – Ward - 1**
Income Tax Office, 12-9-22/A
Prakashnagar, Narsaraopeta
Guntur – 522601
Andhra Pradesh
3. The Principal Commissioner of Income Tax
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, विशाखापटणम /DR,ITAT, Visakhapatnam
5. The Commissioner of Income Tax
6. गार्ड फ़ाईल / Guard file

//True Copy//

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam