IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH : BANGALORE

BEFORE SHRI PRASHANT MAHARISHI, VICE PRESIDENT

ITA No.790/Bang/2025
Assessment year : 2014-15

Shri Guthu Rithesh Rai, Flat T 302, Enn Aar Kay Sadan, 4th Cross, Sanjaynagar, ISRO Anthariksha Bhavan, Bengaluru – 560 094. **PAN: AOFPR 3538B**	Vs.	The Deputy Commissioner of Income Tax, Central Circle 2(4), Bangalore.
APPELLANT		RESPONDENT

Appellant by	:	Shri Vinaya Simha, CA
Respondent by	:	Shri Ganesh R. Ghale, Advocate, Standing Counsel.

Date of hearing	:	24.11.2025
Date of Pronouncement	:	22.12.2025

O R D E R

1. This appeal is filed by Shri Guthu Rithesh Rai (the assessee/appellant) for the assessment year 2014-15 against the appellate order passed by the CIT(Appeals)-15, Bangalore [ld. CIT(A)] dated 31.1.2025 wherein the appeal filed by the assessee against the assessment order passed u/s. 143(3) r.w.s. 147 of the Income-tax Act, 1961 [the Act] dated

30.3.2022 by the DCIT, Central Circle 2(4), Bengaluru, the only issue involved is an addition of ₹ 978,409/– was dismissed.

2. Aggrieved the assessee is in appeal before me. The only issue involved in this appeal is addition of ₹ 978,409/– made in the hands of the assessee under section 69 of the income tax act on the fact that assessee has purchased a house property in the name of his wife for which an allotment letter was found that shows the agreed consideration of ₹ 2,761,300/– however the document value was found to be ₹ 1,782,891/–.

3. The brief facts of the case show that assessee is an individual who did not file the return of income for the impugned assessment year. A search under section 132 of the income tax act was conducted on 17 December 2020 in case of Atria Brindavan Power Private Limited. In connection to that, search under section 132 was also conducted at the residence of the assessee who is an employee of ASK brothers Ltd, one of the key concerns of Atria Brindavan power private limited. During the course of search, certain incriminating documents bearing determination of the total undisclosed income was found. Consequent to the search, the case of the assessee was centralised. Subsequently, the reasons for reopening the assessment proceedings were recorded for the impugned assessment year under section 148 of the income tax act after obtaining the necessary satisfaction of the principal Commissioner of income tax and served on assessee on 31st of March 2021. Assessee did not comply with the notices issued under section 148 of the income

tax act. Further notice under section 142 (1) was also issued on 30th June and 17 November 2021. The assessee did not comply with this. on 07th March 2022 assessee filed his return of income declaring total income of ₹ 162,540. The notice under section 143 (2) was issued to the assessee on 10 March 2022. At the fag end of the assessment proceedings on 10 March 2022 assessee furnished partial details.

4. During the course of search it was found that Mrs sarika R Rai , wife of the assessee entered into a sale deed of purchase of property at flat No. 522, Mahaveer Trsihala , RajaRajeshwari, , Bangalore on 23 December 2023 for the value of ₹ 1,782,891/– from Reddy Infrastructures private limited but the actual consideration paid by the assessee is ₹ 2,761,300/–. This fact has been accepted by the assessee in his statement in answer to question No. 38 wherein assessee stated that flat No. 5 to 2 registered on 23 December 2013 for ₹ 17 laths as per sale deed but as per allotment letter ₹ 2,761,300/– an amount of ₹ 17 lakhs was paid by banking channel and an amount of ₹ 1,061,300/– were paid by cash. In answer to question No. 39 he also stated that the impugned property is in the name of his wife who is also having some income from her savings and some amount she has taken from her relatives, details of which would be submitted in due course. Subsequently the confirmatory statement of the assessee was also recorded under section 131 (1A) on 22 December 2020 and in the said statement he confirmed that he has paid the part payment for the purchase of the above-mentioned property in cash out of his unaccounted income and the same will be offered to tax as additional

income for the respective financial year. The ld. AO further noted that page No. 158 of the seized folder and allotment letter is available for the same property signed by authorised signatory of the developer and addressed to the wife of the assessee wherein which total breakup cost of the same property is given and the value mentioned is ₹ 2,761,300/–. Thus it was evident from the above that assessee purchased the property in the name of wife for ₹ 2,761,300/– which was registered for the value of ₹ 1,782,891/– and therefore the differential amount of ₹ 978,409/– was paid from unaccounted income of the assessee from unexplained sources which has been confirmed by the assessee in his statement.

5. During the course of assessment proceedings, the assessee was asked to explain the source of the above income however the assessee failed to comply with the notices. On 1 February 2022 the assessee submitted statement of affairs and bank statement wherein it can be shown that assessee has declared opening capital of ₹ 4,786,801/– and cash in hand of Rs. 12, 53,481/– the AO noted that assessee is having a salary income of ₹ 248,000 for the year. Therefore the statement of affairs furnished by the assessee is merely an afterthought and incorrect therefore the learned assessing officer was of the view that a sum of ₹ 978,409/– invested by the assessee in purchase of the flat in the name of his wife is an unaccounted an unexplained investment and accordingly the addition was made under section 69 of the income tax act. The assessment order was passed under section 143 (3) read with

section 147 of the act on 30 March 2022 determining total income of the assessee at ₹ 1,140,950/–.

6. The assessee aggrieved with the same has preferred an appeal before the learned CIT – A who disposed of the appeal of the assessee by appellate order dated 31st of January 2021 dismissing the appeal of the assessee. Assessee challenged the reopening of the assessment as well as the assessment proceedings under section 148 of the income tax act before the learned CIT – A along with the additions on the merits. The first ground of the assessee that the notice under section 148 could not have been issued for the impugned assessment year to the assessee as the proceedings under section 153A/153C it should have been taken. The learned CIT appeal held that the search was conducted on 17 December 2020 and the relevant assessment year in which the search was conducted is 2020 – 21 and the six years proceeding from the year in which the search was conducted happens to be assessment year 2014 – 15 and therefore the argument of the assessee was rejected. With respect to the ground of the assessee that the assessment should have been made under section 153A or under section 153C instead of the provisions of section 148 of the act , for the reason that assessee was one of the employee of the person searched in the search, was also rejected holding that assessee was not the searched person. The assessee also challenged that the notice under section 148 was not served on the assessee, the learned CIT appeal categorically held that it was served on the assessee on 31st of March 2021. On the merits of the case, the learned CIT – A held that the evidence of cash payment of ₹

978,409/– with respect to purchase of property was unearthed during the search at the residential premises of the assessee which was in the name of wife of the assessee. The property was registered on 23 December 2013 for a value of ₹ 1,782,891 whereas the actual consideration paid by the assessee is ₹ 2,761,300/–, therefore the differential amount of ₹ 978,409/– has been paid in cash which has been accepted by the assessee in his statement therefore the impugned amount is correctly added to the total income of the assessee. He further rejected the contention of the assessee that impugned amount should be added in the hands of the wife of the assessee because she was merely a housewife with no sources of income. Accordingly appeal of the assessee was dismissed.

7. Before us, the learned authorised representative submitted that in this case the search was conducted on 17 December 2020 which is relevant to assessment year 2021 – 22. The assessment is reopened for assessment year 2014 – 15 which is falling within those six assessment years immediately preceding the assessment year in which search is conducted. Therefore in case of the assessee the provisions of section 153C should have been invoked as the incriminating document was found in the case of search in another case. Therefore the issue of notice under section 148 of the act is invalid. Therefore, the assessing officer is not justified in reopening the assessment under section 147 and his order is illegal and arbitrary the period under consideration first within the exclusive domains of provisions of section 153A. Undisputedly the allotment letter was seized during the course of

search is mentioned by the assessing officer in the assessment order and the assessment was made under section 147 of the act on the basis of statement recorded under section 132 (4) of the act. Therefore the whole assessment is invalid.

8. With respect to the merits of the case, he submitted that assessee nowhere in the above statement submitted that the assessee has agreed to offer the additional income of ₹ 978,409/– to the tax. The learned assessing officer has made the addition merely on the basis of suspicion. He submitted that question No. 38, question No. 39 and subsequent statements did not say that this is an unaccounted income of the assessee. He further stated that during the course of assessment proceedings assessee has furnished a copy of statement of affairs wherein appellant had that opening cash balance of ₹ 1,253,481/– as on 31st of March 2014. Therefore, the amount of funds that is invested assuming while denying in the above property is available with the assessee. Therefore, the addition on merit is also not valid.

9. He further stated that the addition should have been made in hands of the wife of the assessee even if it is required to be made because the assessee is not the person who is invested the money the property is registered in the name of the wife of the assessee.

10. The assessee further stated that that assessee has asked for the reasons recorded on 24 December 2021 which is not provided by the learned assessing officer and therefore the whole assessment order is invalid because the assessee has been deprived of an opportunity to challenge

the reasons and raise objections, which is required to be disposed of by the assessing officer by passing a speaking order. As the reasons have not been given to the assessee despite asking for the same, the whole assessment order is invalid.

11. The learned departmental representative vehemently supported the orders of the learned lower authorities and submitted that the assessee has been found to make an investment of ₹ 948,709/– in purchase of flat which is unaccounted for which is confirmed by the assessee in several statements and therefore the addition is rightly made. Further it was stated that the addition is correctly made by invoking the provisions of section 148 of the income tax act which is dealt with by the learned CIT – A. Why the addition could not be made in the hands of the assessee's wife is for the reason that she is only a housewife and the investment is made by the assessee and therefore the person who has made the investment is required to pay tax on that if it is unexplained. On the issue of reasons not provided to the assessee, the learned departmental representative vehemently stated that the notice under section 148 was issued to the assessee on 31st of March 2021 whereas the assessee filed its return of income only on 7 March 2022 and thereafter on 10 March 2022 notice under section 143 (2) was issued. The assessee asked the reasons on 24 December 2021 before filing of the return of income which is not permitted. And therefore there is no infirmity in the same. He otherwise submitted that it is merely an irregularity which can be rectified by restoring the issue back

to the file of the learned assessing officer with a limited direction to grant the copies of the reasons recorded.

12. We have carefully considered the rival contention and perused the orders of the learned lower authorities. It is found that search in this case was conducted on 17th December 2020. The assessee was issued a notice under section 148 of the act on 31st of March 2021 wherein the assessee filed its return of income on 7 March 2022 and the notice under section 143 (2) was issued to the assessee on 10 March 2022. However it has been stated that the assessee has already asked for the reasons recorded for reopening of the assessment on 24th of December 2021 which was not provided to the assessee at all. As the assessee has asked for the reasons recorded prior to the filing of return, but has also filed the return of income later on 7 March 2022, the assessee should have been given reasons recorded for reopening of the assessment at least after filing of the return of income. This is so for the reason that the assessee could have filed an objection against such reasons for reopening of the assessment. The assessee is deprived of an opportunity to object to the same. It is also true that assessee has filed the ROI at the fag end of the assessment proceedings. For this reason alone, we restore the whole issue back to the file of the learned assessing officer with a direction to grant the copy of the reasons recorded to the assessee. The assessee may file an objection, if he wishes, which would be disposed of after passing a speaking order. Thereafter, the learned assessing officer may frame the reassessment order on the merits of the case after giving assessee an opportunity of hearing.

13. However we completely agree with the order of the learned CIT – A with respect to the invocation of the provisions of section 148 of the income tax act for assessing the income of the assessee as well as taxing the same into the hands of the assessee as the assessee is the investor in the purchase of the flat.

14. It is also a fact that the wife of the assessee is merely a housewife and does not have any sources of income. Further the learned assessing officer may also examine if she has any source of income or saving available for investment in this case. The learned assessing officer is further directed to examine how the assessee has come into the possession of the opening cash balance which is rejected merely on the basis of conjectures and surmises. The learned assessing officer should have asked the assessee to substantiate the same.

15. In the result we restore the whole issue back to the file of the learned assessing officer with a direction to the assessee to obtain the reasons from the assessing officer and file any objection against the reopening of the assessment if he has any. If such objections are filed the learned assessing officer is also directed to disposed off by passing a speaking order. Thereafter he may proceed for re-examination of the whole issue giving the assessee an opportunity to substantiate the opening cash balance available with him as well as the sources of the funds et cetera available with the wife of the assessee. Thereafter, the issue may be decided on the merits of the case in accordance with the law.

16. In the result appeal filed by the assessee is allowed for statistical purposes with above direction.

Pronounced in the open court on this 22nd day of December, 2025.

Sd/-

(PRASHANT MAHARISHI)
VICE PRESIDENT

Bangalore,
Dated, the 22nd December 2025.
/Desai S Murthy /

Copy to:

1. Appellant 2. Respondent 3. Pr. CIT 4. CIT(A)
5. DR, ITAT, Bangalore.

By order

Assistant Registrar
ITAT, Bangalore.