

IN THE INCOME TAX APPELLATE TRIBUNAL  
COCHIN BENCH, COCHIN

**BEFORESHRI INTURI RAMA RAO, ACCOUNTANT MEMBER AND  
SHRI ANIKESH BANERJEE, JUDICIAL MEMBER**

**I.T.A No.643/Coch/2025  
(Assessment Year: 2018-19)**

<b>A &amp; B Associates</b> TC 16/1163, Jagathy, Thycaud, Thiruvananthapuram-695014 <b>PAN : ABFA7820M</b>	<b>vs</b>	<b>The Income Tax Officer</b> <b>Ward-1(1), Trivandrum</b>
<b>APPELLANT</b>		<b>RESPONDENT</b>

Assessee by : Shri Lokanathan, C.A.  
Respondent by : Shri Sanjit Kumar Das, Sr. D/R  
  
Date of hearing : 27/10/2025  
Date of pronouncement : 05/12/2025

**ORDER**

**Per Anikesh Banerjee (JM):**

The instant appeal of the assessee is filed against the order of the National Faceless Appeal Centre (NFAC), Delhi [in short, 'Ld.CIT(A)] passed under section 250 of the Income-tax Act, 1961 (in short, 'the Act') for Assessment year 2018-19, date of order 21/07/2025. The impugned order emanated from the order of the Learned Income-tax Officer, Ward 1(1), Trivandrum, (henceforth, 'Ld.AO') passed under section 147 read with section 144 of the Act, date of order 29/03/2024.

2. The brief facts of the case are that the assessee firm, M/s A & B Associates was a non-filer and the Assessing Officer received information under 'Non-filer Monitoring System' (NMS) flagged in accordance with the Risk Management Strategy formulated by the Central Board of Direct Taxes (CBDT) and as per AIR report uploaded, it was found that the assessee firm had entered into high financial value transactions during the F.Y. 2017-18 relevant to A.Y. 2018-19. As the assessee did not file the return of income for the A.Y. 2018-19, a notice u/s 148 of the Act was issued on 06/04/2022, after issuance of notice u/s 148A(b) of the Act and order u/s 148A(d) of the Act with the approval of the specified authority. The reopened scrutiny assessment proceedings were taken up under National Faceless Assessment Scheme. Thereafter the assessment proceedings were transferred to the Income-tax Office r, Ward-1(1), Trivandrum (hereinafter, 'the Ld.AO'). The Ld.AO found that the PAN of the assessee was not registered on the e-filing portal and no email ID was available in the systems. The Ld.AO issued many notices including notices u/s 142(1) of the Act, but none of the notices was complied with. In the absence of any reply from the assessee, the Ld.AO made addition of Rs.2,86,99,548/- being the total cash deposited in the bank account held with HDFC Bank and taxed the same u/s 115BBE of the Act, in his assessment order passed u/s 147 r.w.s. 144 of the Act. The aggrieved assessee filed appeal before the Ld. CIT(A). The Ld.CIT(A) partly allowed the appeal filed by the assessee by directing the AO to -

- Issue fresh notices at the correct email addresses and, if necessary, by post,
- Consider any explanation and evidence offered by the appellant, including confirmation from M/s Idea Cellular Ltd Vodafone Idea Ltd.:
- Verify debit entries in the bank statement to ascertain business activities;

- Pass a speaking order after proper enquiry and due compliance with legal requirements.

The appeal was thus partly allowed. Further aggrieved, the assessee has filed this appeal before the Tribunal.

3. During the appeal proceedings, the main contention of the Ld.AR for the assessee was that none of the notices stated to be issued by the Ld.AO was received by the assessee and if sent, has been sent to a wrong ID, which could not be delivered on the assessee. He narrated the affairs of the assessee and the entire gamut of issuance of notices and non receipt of notices in detail, as per pages 2 to 11 of the appeal memo. He narrated the entire episodes of proceedings before the Ld.AO as below:-

*“ The firm, M/s A & B Associates with PAN ABEFA7820M was formed in March 2016 between two partners viz., (1) Bilgin K. Thomas and (2) Mr. Arun Mathew registered office at TC 16/1163, Jagathy. Thycaud, Trivandrum. Though some business was done in the Financial Year 2016-17, the net result was a loss of Rs. 5 Lakhs. During the year 2017-18, the firm had taken distributorship of "Idea Mobile recharge vouchers and related products. This business was also not really profitable and ended in a loss after meeting the operational expenses. The turnover was around Rs. 3 Crores. The real margin for the distributor as per the scheme of the Idea Cellular Ltd. (subsequently "Vodafone Idea Ltd") was just 1.13% of the turnover. Over and above this, the distributor was entitled for some incentive commission and target based pay outs. The gross amount of incentive and commission received during the year was Rs.17,58,310/- A sum of Rs. 87,873 was deducted as TDS.*

*As the business was not profitable, and for some other major reasons, the relationship between the partners was substantially damaged and the partners had lost confidence between them. After some preliminary legal steps, they have decided to dissolve the firm and*

accordingly, the firm was dissolved w.e.f. 05/07/2018 on the condition that the business will be taken over by Sri. Bilgin K Thomas (Managing Partner) who has taken over all the assets and liabilities of the firm, all existing and future statutory Liabilities like GST, VAT, sales tax etc. to be met by him. However, as the business was not at all financially viable, it was ultimately closed down by Sri. Bilgin K. Thomas.

The managing partner, Sri. Bilgin K Thomas could not take required steps to complete the legal formalities like finalization and audit of accounts, filling of tax return (both GST & IT) and hence could not complete the affairs properly. Due to severe financial crisis, he had to go to Bangalore & Chennai in search of some assignment. The other partner (Arun Mathew), being unable to find a suitable assignment here, left India in search of an employment abroad and had not interfered in the above matters.

That being so, the Income Tax Department, on the basis of the data and information found that the firm had income escaped assessment for the Financial Year 2017-18, initiated appropriate steps u/s 148A (b), 148A(d) and 148 of the Income Tax Act, 1961.

On receipt of the copy of the assessment order, demand notice and two penalty notices by registered post at the residential address of the appellant which was delivered to a neighbour of the appellant, the registration in the Income Tax portal was done for the first time and a password was created by the appellant and for the first time, the details could be seen/verified. Brief facts observed are mentioned below:-

- a) A show cause notice u/s 148A(b) of the Act was issued by the Jurisdictional Assessing Officer in the e-mail id "**vilginthomas@gmail.com**" on 22/03/2022. This was not delivered to the assessee or the partner as the correct spelling of the mail id of the partner was "**bilginthomas@gmail.com**". Due to this error, most probably, the e-mail could have bounced back to the sender. It is also noticed that later, on 12/03/2024, final show cause notice was sent to the correct e-mail id by the Assessing Officer.
- b) On 06/04/2022, the Jurisdictional Assessing Officer had issued an order u/s 148A(d) of the Act for the reason that the assessee had not filed any reply for the notice u/s 148A(b) of the Act. As the matter was one covered under clause

*(b) of section 149 of the Act, there was sufficient time (say another seven years) to issue a notice u/s 148 of the Act. The Jurisdictional Assessing Officer had not taken any effort to ensure that the notice u/s 148A(b) of the Act was really served on the assessee before taking a conclusion u/s 148A(d) of the Act.*

*On verification of the e-mail sent by him forwarding the order u/s 148A(d) of the Act, the assessee found that it was sent to another e-mail id "absunnyspharma@gmal.com". This ID was also not a proper id of the firm and while sending the same the spelling of the domain "**gmail**" was wrong and hence the fate is unknown. There is no reasonable chance to get it delivered to any e-mail id and would have definitely bounced back to the sender.*

*In short, this communication was also not in the knowledge of the assessee at any point of time before the assessment was completed. The Assessing Officer had never verified whether the communication had really reached the addressee or not.*

*c) Accordingly, a notice u/s 148 of the Act was issued by the Jurisdictional Assessing Officer on 06/04/2022 itself and along with the order u/s 148A(d), another separate e-mail was sent on the above said ID where the spelling of domain address was wrong. Anyway, this notice was also not received by the assessee and hence could not take any action as required.*

*d) Exactly after ten months, on 06/02/2023, an intimation is seen issued by the National Faceless Assessment Centre, Delhi stating that the assessment has been selected for the purpose of faceless assessment as provided u/s 144B of the Act. Unfortunately, this communication was also issued in the above said wrong e-mail id where the spelling of the domain name was wrongly mentioned. It was not known to the assessee. Even the existence of such a domain is unknown.*

*e) Thereafter, one notice u/s 142(1) of the Act was issued by the NFAC on 04/09/2023 in the above wrong e-mail id (wrongly spelt domain address) which was not known to the assessee.*

f) After a period of 4 months, on 26/12/2023, another notice u/s 142(1) of the Act was issued by the Income tax Officer, ward 1(1), Trivandrum in the same wrong e-mail id. It is noticed that no intimation was issued by any authority that the case was transferred from the Faceless Assessment Unit to Jurisdictional Assessing Officer. (Though originally intimation was issued for transfer of the case to Faceless Assessment Unit on 06/02/2023). Anyway, this notice was also never in the knowledge of the assessee.

g) After 6 weeks a reminder was issued on 08/02/2024, u/s 142(1) of the Act, to furnish the details in the same e-mail id with non-existing domain address. On 12/03/2024, the Assessing Officer gathered the correct e-mail IDs of both the partners and issued a show cause notice u/s 144 proposing ex-parte assessment along with a draft assessment order in the following two correct e-mail addresses.

i. **arunkampadathil@gmail.com** and

ii. **bilginthomas@gmail.com**

Though the e-mails were delivered, the partner who took over the business ie, Mr. Bilgin K Thomas was not in Kerala at that time. Hence he could not attend the matter properly within a short period of seven days. He was really unable to compile the details called for and furnish the same within the time given. As the business was closed almost 6 years back, the details were not readily available. The staff/employees of the firm were also not traceable to seek assistance. The other partner Mr. Arun Mathew, was not in India and had no access to any data or records of the business of the firm and hence could do nothing in a very short period of 7 days given by the Jurisdictional Assessing Officer.

i) Before making any arrangements for attending the notice dated 12/03/2024, the assessment order was issued by the Assessing Officer on 29/03/2024 (within 10 days of due date of compliance i.e., 19/03/2024), though the Assessing Officer, by this time, was well aware of the mistakes in the earlier e-mail IDs and found out the correct ones and that the ex-parte notice dated 12/03/2024, is the only document really delivered to the assessee. She had not considered to grant a second opportunity to the appellant to comply with the notices and furnish the details as soon as she noticed that all the earlier

*e-mail IDs were wrong and bounced back to the sender's e-mail box. All the above notices and orders are perfectly available in the e-proceedings account of the appellant, for ready verification by the authorities.*

- j) At last, the Assessing Officer had sent the order of assessment u/s 144 dt. 29/03/2024 and the connected penalty notices by registered post in the address of the retired partner which was delivered by the postal authorities to the neighbour. This was the first ever communication received by the partner in this regard. Though the Assessing Officer had realized the mistakes in e-mail IDs by the beginning of March, 2024, she had not sent any postal communication except the final assessment order.*
- k) Soon after, the contents of the registered post was known to the family members of the partner (who is still abroad), they have initiated action to know the details and got the PAN Registered in the e-portal and password was created for the first time. And all the above details could be gathered.*

*As the retired partner (Arun Mathew) had no information about any of the proceedings as above, he could not attend to the same properly. The managing partner, for the reasons mentioned above, was also not aware of these developments and hence not responded to any of the above notices. He had also not taken steps to file the Return of Income in response to the notice u/s 148 of the Act. (Being unaware of such notices).*

*It is shown that the PAN of the firm was not registered in the e-portal and no e-mail id was available in the system. This was very well known to the Jurisdictional Assessing Officer while the case was transferred to her from National Faceless Assessment Centre. Hence, none of the notices issued by the department was accessible by the assessee or any of its partners. As the business was closed down as early as in July, 2018, the appellants had no idea about service of notice through e-mail or even the Faceless Assessment scheme introduced by the department.*

*As the business place was closed and nobody was available to receive the notices in the address of the firm, the assessee could not respond to any of the notices u/s 142(1), show cause notice and draft assessment order issued by the Assessing Officer.*

*At last, the Assessing Officer had uploaded the show cause notice in the e-mail ID of the partners by middle of March, 2024. The managing partner was also not available in station and could not make any arrangements to represent the firm. The retired partner, being employed outside India, had no access to any of the records of the firm and could not attend to the show cause notice in time.*

*The assessing officer had conducted independent enquiries and found that the firm had deposited cash in the bank account with HDFC Bank (Rs. 2,86,99,548/-) and the firm had commission income of Rs. 17,58,310/- during the year. Even after issue of various notices by the Assessing Officer, and that the appellant had furnished no details, instead of verifying the way in which the amounts were spent, the details of business done by the firm with M/s Idea Cellular Limited (Vodafone Idea Limited) and verifying the bank statements obtained from the bank, the Assessing Officer had opted to treat the entire cash deposits as income u/s 69A and taxed u/s 115BBE of the Act.*

*Further, the Assessing Officer, having collected the entire bank statements from the bank, could easily verify the details of deposits made in the bank account. However, she had not even taken a single step to verify the nature of the business of the firm nor gone through the debit side of the bank account which was showing payments to M/s. Idea Cellular Ltd (Vodafone Idea Limited) only and reasonably she could understand that the firm was carrying on some business with M/s IDEA Cellular Limited (Vodafone Idea Limited). All the details could be collected from Vodafone Idea Limited u/s 133(6) to ascertain the nature of payments made by the firm to them, the total business done by the firm; and ascertain the probable net profit for the said business. Had she taken efforts in that direction, it could easily be ascertained that the cash deposits are business receipts only and there was no "Unexplained money u/s 69A" of the Income Tax Act, 1961. Similarly, the commission*

*income was also received from M/s IDEA Cellular Limited (Vodafone Idea Limited) only with whom the business was done. The data as per Form 26AS, clearly shows that the entire payments u/s 194H of the Act was from "M/s Vodafone Idea Limited" from whom the data could be collected before completing the assessment u/s 147 read with section 144 of the Act. The Assessing Officer could easily compare the profitability of other distributors of the mobile service providers and reasonably estimate the profits of the assessee. Instead, she had seen only the credit side of the bank account and proceeded to complete the assessment violating all the principles of natural justice and the well settled principles of ex-parte assessments.*

*As stated above, the appellant had no genuine opportunity to represent its case which resulted in a huge liability of Rs. 5,44,51,588/- though the business was really in a heavy loss and hence shut down as early as in July 2018.*

*Having denied of all the opportunities to present its case and thereby deprived of natural justice, the appellant preferred an appeal before the first appellate authority seeking justice and cancellation of the order. The first appellate authority, after having granted an opportunity to present the case, had passed an order on 21/07/2025 setting aside the original order and directing the assessing officer to pass a speaking order after proper enquiry and due compliance with legal requirements. The learned Commissioner of Income Tax (Appeals) had not appreciated the legal grounds and irregularities in the proceedings as raised by the appellant, in its right perspective. He had neither dismissed nor adjudicated certain grounds of appeals raised by the appellant. The first appellate authority had not adjudicated the grounds numbered 1,4, 5 & 6 of the appeal and grounds numbered 14 to 19 were not specifically decided. Though the Commissioner of Income Tax (Appeals) has mentioned that he has considered the submissions and materials available on record, his findings and conclusions are erroneous in the following matters:-*

1. *"The assessee failed to file the return of income in response to notice u/s 148-He had not recognized the fact that the notice u/s 148 was sent to a wrong email ID with wrongly spelt domain name. He should have found that there was no proper service of the notice at all and hence there is no default on the part of the assessee. As the original notice itself was not served properly all further proceedings and the order based on the same should have been found irregular and void ab initio.*

2. *"Multiple notices were issued u/s 142(1) requiring the assessee to furnish details, which remained unresponded.*

*As mentioned above, all such notices were sent to wrong email with non-existing domain which could have definitely bounced back to the sender. Even then the error was not rectified by the assessing officer. Hence, non-compliance by the assessee should not have been considered as a default on the part of the assessee by the first appellate authority.*

3. *The observation that "A final showcause notice was issued on 12/03/2024 to the correct email ID of the partners, but even thereafter no reply was submitted".*

*This remark itself substantiates the facts mentioned in the above two paragraphs. That is, the only notice actually served in a valid email ID was the one delivered on 12/03/2024 with a very short period of 7 days. No date and time was given for personal hearing in the said notice.*

4. *The learned Commissioner of Income Tax (Appeals) had also erroneously found that" the assessment was finalized u/s 144 r.w.s 147 based on material available on record, including bank statements and Form No.26AS. This findings is also not based on true facts. Had the assessing officer gone through the bank statements, she could easily find that all the payments were made to M/s Idea Cellular Ltd. and hence, the receipts are only a part of business transactions. Similarly, she had not considered the entries in Form No.26AS which was clearly showing the commission income from Vodafone Idea Cellular Ltd, and the nature of business*

*could reasonably be inferred. Also the TDS credit was not granted, though income was taxed on the basis of 26AS. All the details could be easily gathered from M/s Idea Cellular Ltd. before proceeding us 144 of the Act. Nothing was done by the assessing officer. The learned Commissioner of Income Tax (Appeals) had not considered these facts and justified the irregularities and actions of the assessing officer recording the above findings*

*The learned Commissioner of Income Tax (Appeals) had not appreciated the real and genuine difficulties faced by the partners in responding to the final notice dated 12/03/2024. One partner was out of India and the other one was out of Kerala in search of some employment/ assignments. They were really unable to attend the matter in such a short period. The Assessing Officer failed to grant a second opportunity, though there was more than 12 days time to complete the proceedings.*

*The learned Commissioner of Income Tax (Appeals) had also wrongly found that the transfer of jurisdiction to the Jurisdictional Assessing Officer was duly intimated to the assessee. In fact, there was no such communication originated by the department at all. Moreover, he had overlooked the provisions of law, notifications of the Central Board of Direct Taxes and the decisions of various high courts regarding the procedure and jurisdiction for issue of notice u/s 148A(b), 148 and order u/s 148A(d) of the Act. These notices and orders were issued in an irregular manner and the final transfer to Jurisdictional Assessing Officer alone was considered by the Commissioner of Income Tax (Appeals) Various High Courts have decided that the provisions of section 151A & circulars dated 28/03/2022 & 29/03/2022 issued by the Central Board of Direct Taxes should strictly be adhered to and the Jurisdictional Assessing Officer has no power to initiate proceedings u/s 147 and issue notices us 148A& 148 of the Act. The Commissioner of Income Tax (Appeals), had conveniently ignored all the above and by dismissing such grounds, regularized all the irregularities of the Jurisdictional Assessing Officer and his actions without jurisdiction and placing notices in wrong email addresses with wrongly spelt domain names.*

*By setting aside the order with the direction to verify the transactions and provide opportunity to the appellant, the Commissioner of Income Tax (Appeals) has indirectly condoned all the irregularities and illegal actions of the Assessing Officer and really granted a second opportunity to the assessing officer to do everything afresh and cure all her defaults and defects which was not a ground of appeal of the assessee. Rather the Commissioner of Income Tax (Appeals) has no power to rectify such basic invalid procedures.*

*While doing so, the directions of the Commissioner of Income Tax (Appeals) is not clear that what are all the notices should be issued by the Jurisdictional Assessing Officer, ie, to start from the notice u/s 148A(b) of the Act and afford an opportunity to furnish the details by the assessee for the same and to find that whether any income is escaped assessment and whether the case is a fit case for issue of notice u/s 148 as per law. The appellate order is also mentioning about due compliance of legal requirements but not specific from which stage the proceedings should be restarted. This may again lead to unnecessary litigation and harassment to the assessee.*

4. The Ld.DR on the other hand, relied on the orders of the revenue authorities.

5. We have carefully considered the rival submissions and examined the material placed on record. The undisputed position emerging from the facts is that the assessee did not receive any of the earlier statutory notices issued under sections 148A(b), 148A(d), 148 or 142(1) of the Act, as these were sent to incorrect and non-existent e-mail addresses. Consequently, there was no real or effective service of notice upon the assessee prior to completion of reassessment. The assessment ultimately framed under sections 147 r.w.s. 144 of the Act was thus passed without granting the assessee a reasonable and meaningful opportunity of being heard, in clear violation of the principles of natural justice.

The elaborate factual narration placed before us demonstrates that the assessee had disclosed neither the existence nor the registration of its PAN on the e-filing portal, which was admittedly known to the Assessing Officer. Despite this, no attempt was made by the Ld. AO to ensure proper service through alternative modes. Further, the assessment order was passed within a few days of issuing a single valid notice dated 12/03/2024, without affording adequate time to the assessee to compile old business records, especially when the business had ceased operations in **July 2018** and both partners were outside the station.

We note that the Ld. CIT(A), while setting aside the assessment and issuing directions to the Ld. AO, did not adjudicate several substantive legal grounds raised by the assessee regarding the validity of initiation of reassessment proceedings, jurisdictional infirmities, service of notice, and procedural irregularities. Nevertheless, since the assessee was not granted reasonable opportunity either during the reassessment proceedings or at the rectification stage, and having regard to the interests of justice, we are of the considered view that the matter requires a fresh examination at the end of the Jurisdictional Assessing Officer (JAO).

Accordingly, the impugned order of the Ld. CIT(A) is upheld to the extent that the assessment requires to be redone. However, to avoid ambiguity and multiplicity of proceedings, we clarify that:

1. The JAO shall **commence the proceedings afresh from the stage of issuing notice under section 148A(b)**,
2. Ensure proper and verifiable service of all notices at the correct and functional e-mail addresses and, where necessary, by physical post,
3. Grant the assessee **adequate and reasonable opportunity of hearing**,

4. Conduct **proper enquiries**, if required.

5. Thereafter, pass a **speaking and reasoned order** in accordance with law.

In view of the matter being restored to the file of the JAO for de novo adjudication, all other legal grounds raised by the assessee are kept open.

6. In the result, the appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on 05 /12/ 2025 under Rule 34(4) of  
Income Tax (Appellate Tribunal) Rules, 1963.

Sd/-  
(INTURI RAMA RAO)  
ACCOUNTANT MEMBER

Sd/-  
(ANIKESH BANERJEE)  
JUDICIAL MEMBER

Kochi ,दिनांक/Dated: 05/12/2025  
Pavanan

**Copy of the Order forwarded to:**

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकरआयुक्त CIT
4. विभागीयप्रतिनिधि, आय.अपी.अधि., /DR, ITAT, Kochi
5. गार्डफाइल/Guard file.

BY ORDER,

//True Copy//

(Asstt. Registrar), **ITAT, Kochi**