

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम

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

(HYBRID HEARING)

**श्री रवीश सूद , न्यायिक सदस्य एवं श्री एस बालाकृष्णन, लेखा सदस्य के समक्ष
BEFORE SHRI RAVISH SOOD, HON'BLE JUDICIAL MEMBER**

&

SHRI S BALAKRISHNAN, HON'BLE ACCOUNTANT MEMBER

**आयकर अपीलसं./I.T.A.No.508/VIZ/2025
(निर्धारण वर्ष/ Assessment Year:2020-21)**

Seelamsetty Balaji D.No. 32-3-7 Prajaskthi Nagar, Main Road Vijayawada - 520010 [PAN: ALMPB0516D]	Vs.	The Income Tax officer Ward -2(1) Income Tax Office CR Building, 1 st Floor, Annex M.G. Road Vijayawada – 520002
---	------------	--

करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri GVN Hari, Advocate
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Dr. Aparna Villuri, Sr.AR
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	20.11.2025
घोषणा की तारीख/Date of Pronouncement	:	05.12.2025

आदेश /O R D E R

PER SHRI S. BALAKRISHNAN, ACCOUNTANT MEMBER:

1. This appeal is filed by the assessee against the order of Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, [in short "Ld. CIT(A)"] vide DIN & Order

No.ITBA/NFAC/S/250/2025/26/1077401107(1) dated 23.06.2025 for the A.Y.2020-21 arising out of order passed under section 147 r.w.s. 144B of Income Tax Act, 1961 (in short 'Act') dated 28.02.2025.

2. Briefly stated facts of the case are, based on the specific information flagged as per Risk Management System through insight portal, the following transactions are found to be carried on by the assessee.

Information Description	Source	Amount (Rs.)
Cash deposits in one or more accounts (other than a current account and time deposits) of a person.	State Bank of India	1,01,25,600/-
Cash deposits in one or more accounts (other than a current account and time deposits) of a person.	ICICI Bank Limited	13,36,200/-
Imputed Information – sale of immovable Property (SFT – 012)	Sub Registrar Office, Ongole (Filer TAN:VPNR02325B)	32,76,000/-
Imputed Information – sale of immovable Property (SFT – 012)	Sub Registrar Office, Ongole (Filer TAN:VPNR02325B)	32,76,000/-

3. Assessee has not filed the return of income for the impugned assessment year. Thereafter, considering that the income has escaped assessment for the A.Y.2020-21, the Jurisdictional Assessing Officer passed an order under section 148(d) of the Act dated 11.03.2024 and notice under section 148 of the Act was issued on 11.03.2024. Subsequently, notice under section 142(1) of the Act was issued on 24.07.2024 requesting the assessee to furnish information regarding the sources and details of business and other activities. Assessee submitted his response on 16.10.2024 and also filed the return of income in response to notice

under section 148 of the Act on 22.10.2024 admitting a total income at Rs.11,82,750/-. Assessee has declared his income on presumptive basis under section 44AD of the Act. The assessee also furnished information regarding the sale of property before the Ld. AO. After perusing the information furnished by the assessee, another notice under section 142(1) of the Act was again issued on 02.12.2024 to furnish the necessary supporting documentary evidences. Thereafter show-cause notice was also issued to the assessee on 03.02.2025. The Ld. AO on perusal of the available records, determined the capital gains at Rs.7,62,655/-.

4. On being aggrieved by the order of the Ld. AO, assessee filed an appeal before Ld. CIT(A). Assessee reiterated the contentions raised before the Ld.AO, however, no documentary evidences have produced before the Ld.CIT(A). Therefore, Ld. CIT(A) confirmed the addition made by the Ld. AO and dismissed the appeal of the assessee.

5. On being aggrieved by the order of the Ld. CIT(A), assessee is in appeal before us by raising the following grounds of appeal: -

“1. The order of learned Commissioner of Income Tax (Appeals) is contrary to the facts and also the law applicable to the facts of the case.

2. The learned Commissioner of Income Tax (Appeals) is not justified in sustaining the addition of Rs.7,62,655 made by the assessing officer towards disallowance of indexed cost of improvement.

3. Any other grounds may be urged at the time of hearing.”

6. Assessee also filed a petition seeking admission of additional ground as follows: -.

“The notice dt. 11.03.2024 issued u/s 148 of the Act is invalid as the same was issued by the JAO but not the FAO, in contravention of the provisions of S.151A of the Act and hence the notice is liable to be quashed as invalid.”

7. We admit the additional ground, since it being a legal issue challenging the validity of the issue of notice under section 148 of the Act by the Jurisdictional Assessing Officer (JAO) and not by a Faceless Assessing Officer (FAO).

8. On this issue, the Ld. Authorised Representative [hereinafter “Ld.AR”] submitted that the Jurisdictional Assessing Officer has issued notice under section 148 of the Act on 11.03.2024. Ld.AR further submitted that consequent to notification regarding the e-assessment proceedings dated 29.03.2022 notice under section 148 shall be issued by the Faceless Assessing Officer and not by the Jurisdictional Assessing Officer. He therefore pleaded that since the notice is invalid the consequent assessment proceedings is not valid in law.

9. Per contra, Ld. Departmental Representative [hereinafter in short “Ld.DR”] relied on the orders of the Revenue Authorities.

10. We have heard both the sides and perused the material available on record. It is an undisputed fact that the notice under section 148A(b) of the Act dated 13.01.2024 was issued by the Income Tax Officer, Ward-2(1),

Vijayawada. Subsequently, the order under section 148A(d) of the Act was passed by Income Tax Officer, Ward-2(1), Vijayawada on 11.03.2024 and notice under section 148 of the Act dated 11.03.2024 was issued by the Jurisdictional Assessing Officer i.e., Income Tax Officer, Ward-2(1), Vijayawada. The contention of the Ld.AR is consequent to e-assessment scheme, 2022 w.e.f 29.03.2022 issuance of notice under section 148 of the Act for re-assessment proceedings can only be issued by the Faceless Assessing Officer and not by the Jurisdictional Assessing Officer. In the instant case, we notice that Jurisdictional Assessing Officer has issued notice under section 148 of the Act on 11.03.2024, however, the assessment was framed by e-assessment unit and not by the Jurisdictional Assessing Officer.

11. The solitary issue is with respect to the validity of the notice issued under section 148 of the Act by the Jurisdictional Assessing Officer, whether it is valid or not.

12. In the case on hand, the Jurisdictional Assessing Officer has issued the impugned re-assessment notices under section 148 of the Act. However, the assessment was made under e-assessment Scheme, 2022 by the Faceless Assessing Officer. Whether the assessment order pursuant to notice by JAO and not by FAO is valid or not is the issue before us. The Hon'ble High court of Andhra Pradesh in the case of Smt. Prameela Pasumarthi v. DCIT [2025] 180 taxmann.com 131 (AP) has clearly held as follows: -

“Considering the background in notifying the (E-Assessment Scheme of Income Escaping Assessment Scheme, 2022) notified by the Government of India on 29.03.2022, and in the light of the decisions of various High Courts stated supra and upon careful consideration of the contentions raised by the learned counsel appearing on either side, we hold that the impugned notices and orders which have been issued by the Jurisdictional Assessing Officer, or outside the faceless mechanism as provided under the provisions of Section 144 (b) read with Section 151 A and the "E-Assessment Scheme of Income Escaping Assessment Scheme, 2022" notified by the Government of India on 29.03.2022 under Section 151 A, is bad and illegal. It is made clear that the Jurisdictional Assessing Officer ("JAO") had no jurisdiction to issue the impugned orders/notices.”

13. Further, the Hon’ble High Court of Telangana, in the case of Deloittee consulting India (P.) Ltd. v. Assessment Unit, Income Tax Department, National Faceless Assessment Center, New Delhi [2025] 178 taxmann.com 781 (Telangana) held as follows

“III. Lack of jurisdiction for issue of Notice under section 148A(b) and Notice under section 148 by the Jurisdictional Assessing Officer

The assessee has also assailed the reopening of the assessment on the ground of lack of jurisdiction of the Jurisdictional Assessing Officer (JAO). According to the assessee, the proceedings could have been initiated only by the Faceless Assessing Officer (FAO) in terms of the Notification No.18 of 2022 i.e., e-Assessment of Income Escaping Assessment Scheme, 2022 issued by the CBDT as per Section 151 of the Income Tax Act, 1961. In the instant case, the notice dated 07.04.2022 under Section 148 was issued by the JAO holding charge of Circle 8(1) and not the FAO. This issue has been answered in favour of the petitioner/assessee by the High Court for the State of Telangana in the case of Kankanala Ravindra Reddy v. ITO_[2023] 156taxmann.com 178/295 Taxman 652 (TELANGANA). Therefore, it is held that the notice dated 07.04.2022 issued under Section 148 by the JAO is without jurisdiction. [Para 52]”

14. The Hon’ble Supreme Court in the case of ITO v. Prakash Pandurang Patil [2025] 178 taxmann.com 8 (SC), dismissed the SLP filed by the revenue by observing as follows: -

“INCOME TAX: SLP dismissed against order of High Court that where reopening notice issued under section 148 for assessment year 2018-19 was not under mandatory faceless mechanism as per provisions of section 151A, proceedings initiated under section 148 would not be sustainable and were rendered invalid

15. Respectfully following the judicial precedents discussed as aforesaid, we are of the view that impugned notice issued under section 148 of the Act on 11.03.2024 after passing an order under section 148A(d) of the Act on 11.03.2024 by the Jurisdictional Assessing Officer was not under mandatory faceless mechanism as per provisions of section 151A of the Act. The Impugned re-assessment notice deserves to be set-aside. Consequently, the order passed under section 147 r.w.s. 144B of the Act is without jurisdiction and hence quashed. Accordingly, the legal ground raised by the assessee is allowed.
16. Since the legal ground is adjudicated in favour of the assessee, the other grounds raised on merits are left open.
17. In the result, appeal of the assessee is allowed.

Order pronounced in the open court on 05th December, 2025.

Sd/-

(रवीश सूद)

(RAVISH SOOD)

न्यायिक सदस्य/JUDICIAL MEMBER

Dated: 05.12.2025

Giridhar, Sr.PS

Sd/-

(एस बालाकृष्णन)

(S. BALAKRISHNAN)

लेखा सदस्य/ACCOUNTANT MEMBER

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee : **Seelamsetty Balaji**
D.No. 32-3-7
Prajasakthi Nagar, Main Road
Vijayawada - 520010
2. राजस्व/ The Revenue : **The Income Tax officer**
Ward -2(1)
Income Tax Office
CR Building, 1st Floor, Annex
M.G. Road
Vijayawada – 520002
3. The Principal Commissioner of Income Tax
4. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, विशाखापटणम /DR,ITAT, Visakhapatnam
5. The Commissioner of Income Tax
6. गार्डफ़ाईल / Guard file

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam