

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
'B' BENCH, CHENNAI**

श्री जॉर्ज जॉर्ज के, उपाध्यक्ष एवं श्री एस.आर.रघुनाथा, लेखा सदस्य के समक्ष  
**BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT AND  
SHRI S.R. RAGHUNATHA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.:1815/Chny/2025

निर्धारण वर्ष / **Assessment Year: 2011-12**

<b>Nagarajan Jaya,</b> Old No.1/58, New No.1/89, Manimangalam, East Mada Street, Sriperumbudur, Kancheepuram – 601 301.	vs.	<b>ITO,</b> Ward -1, Kancheepuram.
<b>[PAN: APTPJ-7763-D]</b> (अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri. S. P. Chidambaram, Advocate  
प्रत्यर्थी की ओर से/Respondent by : Ms. Gouthami Manivasagam, J.C.I.T.

सुनवाई की तारीख/Date of Hearing : 13.11.2025  
घोषणा की तारीख/Date of Pronouncement : 05.01.2026

**आदेश / O R D E R**

**PER S. R. RAGHUNATHA, AM:**

This appeal by the Assessee for Assessment Year (A.Y.) 2011-12 arises out of the order of learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [in short Id.CIT(A)] dated 10.06.2025 against an assessment framed by Assessing Officer [AO] u/s.147 of the Income Tax Act, 1961 (in short 'the Act') on 30.09.2021.

2. The main grievance of the assessee is in relation to jurisdiction assumed by the AO while initiating the reassessment proceedings and on merits in

relation to the addition towards unexplained cash deposit and estimation of business income.

3. The brief facts of the case are that the assessee filed her return of income on 30.03.2012 declaring total income of Rs.2,99,420/-. The case of the Assessee was selected for scrutiny assessment through CASS and based on the AIR information that the Assessee has sold immovable properties as power agent. The scrutiny assessment seem to have been completed on 31.03.2014. In the scrutiny assessment order, the AO has given a finding that the Assessee has acted as broker and commission income was offered to tax and the AO found such explanation to be acceptable and hence the AO has not made any addition.

4. Subsequently, after a lapse of 4 years from the A.Y., the AO seemed to have initiated the reopening proceedings by issuing a notice u/s.148 of the Act dated 29.03.2018. The reopening has been initiated on the sole reasoning that in the Savings Bank account with Indian Overseas Bank, Manimangalam branch transaction for an amount of Rs.1,84,07,272/- undertaken during the A.Y.2011-12 and therefore the AO was of the opinion that there is an escapement of income for the above assessment year. Later, the reassessment proceedings were completed on the basis that the gross receipts of the Assessee was in excess of Rs.60,00,000/-, and the Assessee has not maintained books of accounts nor had her accounts audited, the income declared by the Assessee (considering 3% of the gross receipts of Rs.1,84,07,272/-) was not accepted and the AO has indicated that he is making an ad hoc estimation of 10% and thereby made an addition of Rs.15,40,125/-.

5. Apart from this, the AO has also made an addition of Rs.25,88,000/- as unexplained cash deposit. Aggrieved against the reassessment order the Assessee filed a Revision Application before the Commissioner of Income Tax u/s.264 of the Act vide revision application dated 23.01.2019. In the Revision Application the Assessee has challenged the entire reassessment order i.e.

jurisdiction as well as on merits. The Commissioner of Income Tax passed the Revision order u/s.264 of the Act on 19.02.2020 and held that after considering the facts as well as the reply submitted by the Assessee the order u/s.143(3) r.w.s 147 dated 26.12.2018 for the A.Y.2011-12 is set aside with a direction to the AO to consider the issue de novo in accordance with law and pass necessary orders after affording opportunity to the Assessee.

6. The AO gave effect to the revision order passed by the Commissioner of income tax and in the said order he has reconfirmed the additions made in the original reassessment order. The giving effect order has been passed on 30.09.2021 without DIN being mentioned in the body of the order. Aggrieved against the giving effect order, the Assessee has filed an appeal before the Id.CIT(A) and challenged the validity of reassessment proceedings as well as on merits i.e. the additions made in the giving effect order. The Id.CIT(A) vide impugned order dated 10.06.2025 has held that grounds of appeal relating to reassessment order, if at all, could have been raised by the assessee against the reassessment order passed by the AO and not against the giving effect order passed u/s.143(3) r.w.s. 264 of the Act. Accordingly, the Id.CIT(A) refrained from adjudicating or dealing with on the validity of the jurisdiction assumed by the AO while initiating the reassessment proceedings u/s.147 of the Act. Aggrieved against the said order of the Id.CIT(A), the Assessee is in appeal before us.

7. The Ld. AR for the assessee advanced arguments supporting the case of the assessee whereas Ld. Sr. DR referred to the adjudication of Ld.CIT(A) in the impugned order. Having heard rival submissions and upon perusal of case records, our adjudication would be as under:

8. The main contention of the Assessee can be split into 3 parts viz., the first part is whether the Assessee can now question the validity of the jurisdiction assumed by the AO for initiating the reassessment proceedings and second part is, if the Assessee can challenge the jurisdiction, whether the reassessment

proceedings initiated is valid. The third part is on the addition sustained by the Id.CIT(A).

9. We have heard the rival submissions and perused the material on record. We note that originally when the Assessee has filed an application for revision before the Commissioner of Income-tax, she has challenged the jurisdiction of the Assessing Officer in assuming jurisdiction u/s.147 of the Act. In the revision order, the Id.CIT has also dealt with the same and later in the operative portion of his order, the Id.CIT has specifically said that the entire reassessment order is set aside for de novo consideration to the file of the AO. Therefore, when the entire issues are set aside for de novo consideration, it will be by default and without saying, include the challenge to validity of the reassessment also. Therefore, upon remand, it is the duty of the AO to adjudicate on the validity of the jurisdiction as well as the additions made in the reassessment order. However, the AO in the remand proceedings has not dealt with or adjudicated on the jurisdictional aspect whereas he has only given effect to the order to the extent of the additions made in the original reassessment order. This action of the AO, in our view may not be the correct approach when the entire reassessment order is set aside for de novo consideration. Therefore, the Assessee did not have an option but to assail the validity of jurisdictional issue before the Id.CIT(A), but the Id.CIT(A) has incorrectly held jurisdictional issue cannot be raised in the appeal against the giving effect order and if at all it can be raised only in the appeal against the reassessment order.

10. The present appeal is nothing but a continuation of the original reassessment proceedings and hence, the validity of such reassessment can be challenged at any stage more so when the Assessee had questioned the same in revision petition against the reassessment order. Once the validity of the reassessment has been questioned in the appeal/revision against original proceedings the same can be questioned in the subsequent appellate proceedings. Irrespective of the above, we are also of the view that this is purely

a legal issue and as such even if this issue was not raised in the appeal/revision against the original reassessment proceedings, it can still be raised in the appellate proceedings against the giving effect order in which this issue culminated. It is crucial to consider the fact that giving effect orders are nothing but continuation of the original order and it will have all the effects of the original order. Therefore, jurisdictional issue which culminated in the original reassessment order will continue to remain in the subsequent giving effect order. This is the reason why the giving effect orders are passed u/s.143(3)/147 r.w.s. 264 of the Act. There cannot be an estoppel against the legal issue and the revenue authorities cannot put artificial fetters to legal issues being challenged in the subsequent appellate proceedings which culminated from the reassessment order. We are also aware that validity of jurisdiction can be challenged in the collateral proceedings. The Ld.AR had relied on the following decision to canvas his point that even in collateral proceedings validity of reassessment can be raised:

1. Jagjeet Singh Vs DCIT/ACIT [2024] 164 taxmann.com 324 (Amritsar – Trib)
2. Raghu Raj Pratap Singh Vs ACIT [2009]179 taxmann.com 73 (Allahabad)
3. Concord Infra Projects Pvt Ltd Vs PCIT ITA.No.174/Kol/2021 dt.13.10.2021
4. Inder Kumar Bachani (HUF) Vs ITO [2006] 99 ITD 621 (Lucknow)

11. The courts have held that validity of reassessment can be challenged in the subsequent proceedings, in the present facts of the case, it is actually a continuation of the original reassessment and therefore, the challenge to the reassessment can very well be raised.

12. Having held that the validity of the jurisdiction can be challenged in the present appellate proceedings, we shall now advert to reason for reopening to determine the validity of the jurisdiction from limitation and change of opinion perspective. The reason for reopening is that there is transaction in the savings bank account to the tune of Rs.1,84,07,272/- and therefore the AO is of the view that the income has escaped assessment. The Ld.AR invited our attention to the memo of total income at page 13 of the paper book on the basis of which the return of income was filed by the Assessee. In the said total income

computation prepared by the Assessee, it is explicitly mentioned that she has computed and declared 3% commission on total turnover from real estate business of Rs.1,84,07,272/-. Further, the scrutiny assessment u/s.143(3) of the Act seems to be done for the purpose of verification of the real estate transaction undertaken by the Assessee. After examination of the details and evidence furnished by the Assessee, the AO has completed the assessment with the finding that the explanation of the Assessee is acceptable and did not make any additions thereof. Subsequently after the lapse of 4 years, the AO has once again initiated reassessment proceedings to look into the very same real estate transaction for Rs.1.84 crores. Nowhere in the reasons for reopening notice or in the reassessment order, the AO has alleged that there is failure on the part of the Assessee to truly and fully disclose. That being the case, the limitation prescribed under the first proviso to section 147 of the Act will kick in and hence the reopening initiated beyond the period of 4 years will be barred by limitation.

13. The Ld.DR vehemently relied on Explanation 2 (c) to section 147 of the Act and contended that when the assessment has been made but the income assessable to tax has been undressed then the same can be subjected to reassessment.

14. The Ld DR has also relied on various case laws as under:

1. CIT Vs PVS Beedies (P) Ltd 237 ITR 13 (SC)
2. Phool Chand Bajrang Lal Vs ITO 203 ITR 456 (SC)
3. ITO Vs TechSpan India (P) Ltd [2018] 92 taxmann.com 361 (SC)
4. Multi Commodity Exchange of India Ltd Vs DCIT 423 ITR 445 (SC)
5. Multi Commodity Exchange of India Ltd Vs DCIT [2018] 91 taxmann.com 265 (Bombay) (HC)
6. S.Subrahmanyan Constructions Co (P) Ltd Vs ACIT [2021] 131 taxmann.com 76 (Madras) (HC)

15. We have perused all these case laws' and these decisions are in relation to courts having upheld the validity of the reassessment on various reasons such as 'basis audit party info an assessment can be reopened; subsequent information can be a basis for reopening; cryptic assessment order can be basis

to reopen; bogus claims' etc. However, none of these decisions seem to have dealt the jurisdictional aspect of limitation as per first proviso to Section 147 of the Act. Therefore, these decisions are not relevant to the issue on hand and are distinguishable on facts.

16. Per Contra, the Ld.AR placed reliance on the following decisions. We have gainfully reproduced the relevant excerpts from such decisions as under:

16.1 Sanmina SCI Technology India Private Limited Vs ACIT WP.Nos. 954 of 2020 and 35909 of 2019 dated 12.03.2021.

*"7. These conditions are not satisfied in the present case, seeing as the return of the petitioner has, admittedly, been filed within time and the disclosure of the petitioner is also not in question. In fact, the original order passed under Section 143(3) proceeds to examine the claim of exemption under Section 10AA, minutely.*

*8. No error is pointed out in the returns or annexures filed by the petitioner or any of the details filed at the time of assessment and in such an instance, the proceedings for assessment, initiated beyond a period of four years, is barred by limitation. It appears that the Assessing Officer had lost sight of the issue now raised.*

*9. Explanation 2(c) to Section 147, relied on by the revenue, reads as follows:*

*Where an assessment has been made but income chargeable to tax has been under assessed or such income has been made the subject of excess relief under this Act or excessive allowance under the Act has been computed,*

*10. Explanation 2(c) to Section 147 will not come to the aide of the relevance as, while the income chargeable has been made subject to excessive relief, the explanation cannot override the statutory prescription of limitation as set out in the proviso to Section 147. The purpose of the Explanation is merely to explain the scope of re-assessment as set out in the statutory provision and not to expand on or tinker with the limitation set out thereunder."*

16.2 Similarly the Mumbai Bench in the case of DCIT Vs. Tata Motors limited reported in 121 TTJ 494 has held as under:

*"On going through the mandate of this proviso, it is discernible that if the original assessment is made under section 143(3) or 147, then no aid of section 147 can be taken after the expiry of four years from the end of the relevant assessment year unless the conditions referred to in the proviso are fulfilled. There was no failure on the part of the assessee to make return under section 139 or in response to the notice under section 142(1) or under section 148. Thus, this set of conditions is not applicable. Coming to the last stipulation, being the failure to disclose fully*

and truly all material facts necessary for the assessment, it is required to be seen as to whether the assessee was successful or not in disclosing fully and truly all material facts necessary for his assessment. Clearly, the period of four years from the end of the relevant assessment year expired in this case before the issuance of notice under section 148. It is only if the failure on the part of the assessee to disclose fully and truly all material facts is established, then the Revenue can resort to the reassessment under section 147, otherwise not.

7. At this juncture, we would like to deal with the contention of the learned Departmental Representative by which he has referred to Explan. 2(c) in aid of the language in the proviso to section 147 to contend that where assessment has been made but income chargeable to tax has been underassessed, etc., then those cases should be considered to be the cases where "income chargeable to tax has escaped assessment" and by the aid of this deeming provision, there cannot be any embargo on the power of the AO to make reassessment beyond four years even if the assessee has made proper disclosure earlier. **We are not convinced with the submission made on behalf of the Revenue for the reason that no doubt the cases referred in Explan. 2(c) deemed to be the cases where income chargeable to tax has escaped assessment, but when these are applied to the proviso to section 147, it is necessary to establish that such escapement of income was only due to failure on the part of the assessee to disclose fully and truly all material facts necessary for his assessment. If the view canvassed by the learned Departmental Representative is accepted for a moment and given the logical end, it would amount to abating the prescription of the proviso to section 147.** The line of distinction between the general cases of income escaping assessment and those provided in the proviso, is that whereas in the general cases there may be any reason for attracting the provisions of section 147 when the income chargeable to tax has escaped assessment in terms of Explan. 2, that is, it may be due to the failure on the part of the assessee to disclose fully and truly all material facts necessary for his assessment or otherwise. It means so long as the income is escaping assessment, the AO can resort to making of assessment under section 147. Reasons resulting into underassessment of income are immaterial. But, if original assessment is made under section 143(3) or under section 147, then the reassessment can be done beyond the period of four years from the end of the relevant assessment year only if income escaped assessment due to failure on the part of the assessee to disclose fully and truly all material facts necessary for his assessment. In the later situation, the assessee comes under the umbrella of protection subject to the fulfilment of the prescribed conditions. The underlying idea behind the insertion of this proviso is that the AO should be alert at the time of making assessment and he should be given a limited leverage for making the reassessment in case where he had already made original assessment under section 143(3) or under section 147 and resultantly the assessee is not needlessly visited with reassessment proceedings time and again when he has made a full disclosure of all the material facts necessary for the assessment. In this view of the matter, we are satisfied that the contention raised on behalf of the Revenue is sans merits and is hereby repelled to the extent that Explan. 2(c) is mandatorily required to be considered notwithstanding the proper disclosure made by the assessee at the time of original assessment, when the period of four years from the end of relevant assessment year has expired as prescribed under proviso to section 147." (emphasis supplied)

16.3 Further, the Ld.AR also pointed that one of the decisions relied upon by the Ld.DR (i.e. S.Subrahmanyan Constructions Co (P) Ltd Vs ACIT [2021] 131

taxmann.com 76 (Madras) (HC)] has already been overruled in the same case by the subsequent decision in the second appeal in WA.No.2456 of 2021 dated 24.09.2021.

17. Therefore respectfully following the above decisions, we are of the view that the reopening in the instant case which is initiated beyond the period of 4 years is hit by the first proviso to Section 147 of the Act and since the AO has not pointed that there is failure on the part of the Assessee to fully and truly disclose, the reopening beyond 4 years is barred by limitation and invalid in law. Accordingly, this ground of appeal is allowed.

18. Since we have decided the jurisdictional ground in favour of the Assessee, we are not adjudicating on merits as they are all now become academic.

19. In the result the appeal of the Assessee is allowed.

Order pronounced in the court on 05<sup>th</sup> January, 2026 at Chennai.

**Sd/-**

(जॉर्ज जॉर्ज के)

**(GEORGE GEORGE K)**

उपाध्यक्ष /VICE PRESIDENT

**Sd/-**

(एस. आर. रघुनाथा)

**(S. R. RAGHUNATHA)**

लेखा सदस्य/ACCOUNTANT MEMBER

चेन्नई/Chennai,

दिनांक/Dated, the 05<sup>th</sup> January, 2026

**SP**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT– Chennai/Coimbatore/Madurai/Salem
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF