आयकर अपीलीय अधिकरण, हैदराबाद पीठ

IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'A' Bench, Hyderabad

BEFORE SHRI RAVISH SOOD, JUDICIAL MEMBER AND
SHRI MADHUSUDAN SAWDIA, ACCOUNTANT MEMBER

आ.अपी.सं /**ITA Nos.549 & 589/Hyd/2024**
(निर्धारण वर्ष/Assessment Years:2015-16 & 2013-14)

1. M/s. Desu Enterprises, Ongole (A.P.) PAN: AAGFD1940C	**Vs.**	**Income Tax Officer, Ward-1, Ongole.**
2. Thalla Srisailam Goud, Ibrahimpatnam. PAN : AITPG3044K		**Income Tax Officer, Ward 9(1), Hyderabad.**
(Appellants)		(Respondents)
निर्धारिती द्वारा/Assessees by:	Shri Sashank Dundu, Advocate	
राजस्व द्वारा/Revenue by:	Ms. U. Mini Chandran, CIT-DR and Ms. Payal Gupta, SR-DR	
सुनवाई की तारीख/Date of hearing:	06/11/2025	
घोषणा की तारीख/Pronouncement:	07/01/2026	

आदेश/ORDER

PER MADHUSUDAN SAWDIA, A.M.:

These appeals are filed by M/s. Desu Enterprises and Shri Thalla Srisailam Goud ("the assessees"), feeling aggrieved by the separate orders passed by the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi ("Ld. CIT(A)"), dated 26.02.2024 and 09.04.2024 for the A.Ys. 2015-16 & 2013-14 respectively. Since the issues involved in these two appeals are identical, they are heard together and

one consolidated order is being passed for the sake of convenience and brevity.

ITA No.589/Hyd/2024 :

2. The assessee has raised the following grounds of appeal :

> *" 1. The Ld. Commissioner of Income-Tax (Appeals)/NFAC erred in disallowing the grounds of the Appellant both -on facts of the case and in Law.*
>
> *2. The Ld. Commissioner of Income-tax (Appeals)/NFAC ought to have noticed that the notice u/s 148 of the old law having been issued on 01.04.2021, the entire assessment proceedings consequent to such notice are bad in law in the light of the decision of the Apex Court in the Ashish Agarwal (444 ITR 1).*
>
> *3. The Ld. Commissioner of Income-tax (Appeals)/NFAC erred rejecting the legal grounds raised by the Appellant w.r.t. initiation of reassessment proceeding without following due procedure prescribed under the statute.*
>
> *4. The NFAC ought to have appreciated that the Assessing Officer had not recorded proper satisfaction and further initiated reassessment proceedings under the old law beyond the period of six years. from the end of the relevant assessment year and therefore the assessee not only suffers from lack of jurisdiction but also passed in violation of principles of natural justice.*
>
> *5. The Ld. Commissioner(Appeals)/NFAC erred in confirming the arbitrary addition of Rs.2,06,60,990/- made by the Assessing Officer referable to the cash deposits, which were added multiple times without even examining and verifying the data populated in the Department's database. In fact actual cash deposits are only to the tune of Rs. 47,10,198/- and the same are supported by valid source.*
>
> *6. The Ld. Commissioner(Appeals)/NFAC further erred in stating that Appellant had not furnished bank statements to verify the double additions and duplicate entries overlooking the material placed on record during the course of assessment proceedings as well as appellate proceedings.*
>
> *7. The Ld. Commissioner(Appeals)/NFAC ought to have accepted the source for the actual cash deposits i.e., gross receipts from the traditional toddy business, agriculture income etc., more particularly when there is no contrary finding in this regard by the Assessing Officer and additions were made without application*

of mind by mechanically relying on the wrong and incorrect information reported in the Department's data base.

8. For these and other grounds that may be urged at the time of hearing, the appellant submits that the Hon'ble ITAT may be pleased to quash the assessment order as it is bad in law or in the alternative delete the arbitrary additions upheld by the CIT(Appeals)/NFAC."

3. The brief facts of the case are that the assessee had filed an appeal before the Ld. CIT(A) against the assessment order passed by the Learned Assessing Officer ("Ld. AO") under section 147 read with sections 144 and 144B of the Income Tax Act, 1961 ("the Act"), dated 29.03.2022. The Ld. CIT(A) dismissed the appeal of the assessee by confirming the order passed by the Ld. AO.

4. Aggrieved with the order of Ld. CIT(A), the assessee is in further appeal before this Tribunal. At the outset we find that, under grounds nos. 2 and 3, the assessee has raised a legal ground challenging the validity of the notice issued under section 148 of the Act. In this regards the Learned Authorised Representative ("Ld. AR") submitted that although the notice under section 148 of the Act bears the date 31.03.2021, the same was, in fact, issued and communicated to the assessee only on 01.04.2021. In support of this contention, our attention was drawn to the email communication received by the assessee from the Revenue, placed at page no. 48 of the paper book no.1, whereby the notice under section 148 of the Act was served upon the assessee. The Ld. AR pointed out that the said email clearly reflects the time of delivery as 03:53 AM on 01.04.2021. On the basis of this documentary evidence, it was contended that the notice under section 148 of the Act was issued by the Revenue only on 01.04.2021. It was further submitted that by the Finance Act, 2021, the entire scheme of reassessment was substituted with

effect from 01.04.2021, and from that date onwards, the Ld. AO is mandatorily required to follow the procedure prescribed under section 148A of the Act prior to issuance of a notice under section 148. In the present case, it was contended that no procedure as prescribed under section 148A of the Act was followed before issuing the notice under section 148 of the Act. Therefore, the notice issued under section 148 of the Act is invalid in law and the assessment framed pursuant thereto is liable to be quashed. In support of the above submissions, reliance was placed on the judgment of the Hon'ble Telangana High Court in the case of Kalyan Chillara v. DCIT, reported in 167 taxmann.com 500 (order dated 14.06.2024), wherein, under similar facts, the notice issued under section 148 of the Act without following the mandatory procedure under section 148A of the Act was held to be invalid and the consequential assessment order was quashed. Accordingly, the Ld. AR prayed before the Bench to quash the order of the Ld. A.O.

5. Per contra, the Learned Departmental Representative ("Ld. DR") invited our attention to a screenshot of the Income-tax portal placed at page no. 6 of the paper book and submitted that the notice under section 148 of the Act had been dispatched through the Income-tax portal on 31.03.2021. It was contended that although the email communicating the notice reflects the date and time of sending as 01.04.2021 at 03:53:49 AM, the notice had already been generated and dispatched on the portal on 31.03.2021. The Ld. DR further submitted that due to heavy congestion and technical issues in the electronic network, the email communication of the notice could have been delivered to the assessee only on 01.04.2021. However, for all practical purposes, according to the Ld. DR, the notice ought to be treated as issued on 31.03.2021, and therefore, the reassessment proceedings would be governed

by the law as it stood prior to 01.04.2021. On this basis, it was contended that the notice issued under section 148 of the Act cannot be held to be invalid.

6. We have carefully considered the rival submissions and perused the material available on record including the case law relied upon. The short issue that arises for our consideration is whether the notice under section 148 of the Act was issued on 31.03.2021 or on 01.04.2021, and if it is held that the notice was issued on 01.04.2021, whether such notice issued without following the mandatory procedure prescribed under section 148A of the Act is valid in law. In this regard, we have gone through the screen shot of Income Tax portal submitted by the revenue which is placed at page no.6 of their paper book, which is to the following effect :

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ITBA ~ Assessment
INCOME TAX BUSINESS APPLICATION

A- A A+

Welcome MD RAQUEEB AZAM , WARD 9(1),HYDERABAD , AO Logout ITBA Home

Menu Worklist MIS Reports Help FAQs

Assessment Home Page | Worklist | Assessment Proceeding | Case History/Notings | **View/Enter Dispatch Details**

Emails marked as 'Email Sent' are triggered from System and delivery status is awaited.

View/Enter Dispatch Details

If there are Multiple attachments, then please Zip them and attach.

Dispatch Date once entered and saved will not be allowed to change

Search Criteria

PAN/TAN	AITPG3044K	**Name(Contains)**		**Mode**	Select
Date of Issue *	30/03/2021 31/03/2021	**Date Of Dispatch**	From To	**Date of Service**	From To
Status *	Email Delivered	**Module ***	ASSESSMENT	**Document Number**	

Search Reset

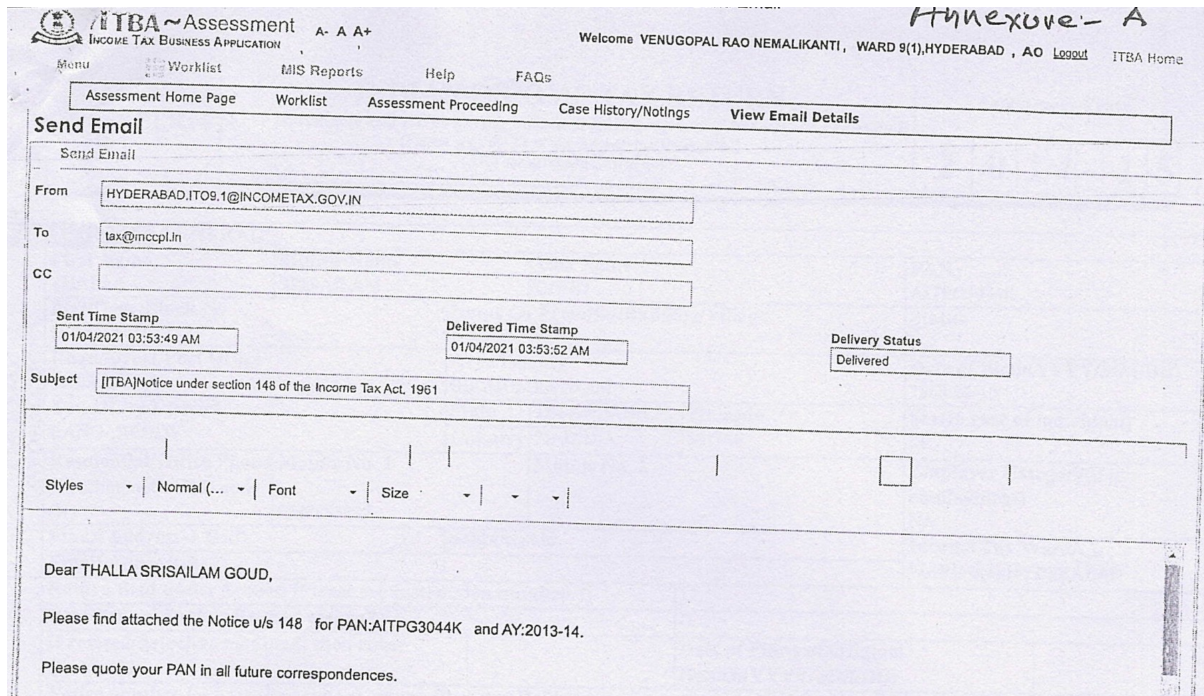
Option to add Date of Dispatch or Date of Service ◯ Dispatch ◯ Service **Date** Proceed

Register Details

	☐	Dispatch No	Date of Issue	PAN/TAN	Addressee Name	Subject	Comm. Ref. No.	View Document	Mode of Dispatch	Date of Dispatch	Date of Service	Status *	Rema
1	☐		31/03/2021	AITPG3044K	tax@mccpl.in	Notice u/s 148	ITBA/AST/S/148/2020-21/1032008156(1)	Attachments	Email			Email Delivered	
2	☐		31/03/2021	AITPG3044K	THALLA SRISAILAM GOUD	Notice u/s 148	ITBA/AST/S/148/2020-21/1032008156(1)	Attachments	Email			Email Delivered	

Save Dispatch Details

7. We have also gone through the screen shot of the copy of mail sent by the revenue, which is to the following effect :


Annexure- A

ITBA ~ Assessment A- A A+
Income Tax Business Application

Welcome VENUGOPAL RAO NEMALIKANTI , WARD 9(1),HYDERABAD , AO Logout ITBA Home

Menu Worklist MIS Reports Help FAQs

Assessment Home Page | Worklist | Assessment Proceeding | Case History/Notings | View Email Details

Send Email

Send Email

From: HYDERABAD.ITO9.1@INCOMETAX.GOV.IN

To: tax@mccpl.in

CC:

Sent Time Stamp: 01/04/2021 03:53:49 AM

Delivered Time Stamp: 01/04/2021 03:53:52 AM

Delivery Status: Delivered

Subject: [ITBA]Notice under section 148 of the Income Tax Act, 1961

Styles | Normal (... | Font | Size

Dear THALLA SRISAILAM GOUD,

Please find attached the Notice u/s 148 for PAN:AITPG3044K and AY:2013-14.

Please quote your PAN in all future correspondences.

8. On the basis of the above screen shot of Income Tax portal, the Ld. DR has contended that the notice under section 148 of the Act was dispatched through the Income-tax portal on 31.03.2021. Further on the basis of above e-mail, it was submitted by Ld. DR that although the email communication of the notice reflects the date and time of sending as 01.04.2021 at 03:53:49 AM, the notice had already been generated and dispatched on the portal on 31.03.2021. According to the Revenue, due to congestion and technical constraints in the electronic network, the email communication of the notice was delivered to the assessee only on 01.04.2021. It was thus contended that for all practical purposes, the notice ought to be treated as having been issued on 31.03.2021, and therefore, the reassessment proceedings would be governed by the law prevailing prior to 01.04.2021.

9. We are unable to accept the aforesaid contention of the Revenue. On perusal of the above e-mail communication by the revenue, we find that the time of sending of the email is clearly mentioned as 03:53:49 AM on 01.04.2021, and the time of delivery is mentioned as 03:53:52 AM on 01.04.2021. This electronic trail constitutes a contemporaneous record of the actual communication of the notice to the assessee. We find that the precise argument advanced by the Revenue, that mere generation or dispatch of the notice on the Income-tax portal on 31.03.2021 should be treated as issuance, notwithstanding its communication on 01.04.2021, has been categorically examined and rejected by the Hon'ble Telangana High Court in the case of Kalyan Chillara v. DCIT (supra). In this regard, we have gone through the para nos. 16 to 24 of the decision of the Hon'ble Telangana High Court in the case of Kalyan Chillara v. DCIT (supra), which is to the following effect :

> *" 16. Upon hearing the learned counsel for the petitioners and also the learned Senior Standing Counsel for the respondents, we went through certain records which were produced before us and some of which were part of the pleadings. Though there were some discrepancies reflected in the screen-shots taken from the portal pages, but on actual verification of the records which has come before 6 [2022] 449 I.T.R. 517 (Del.) PSK,J & NTR,J wp_18098_2022&batch us and which clearly indicate that the notices have been issued in all these writ petitions (not served) itself on 01.04.2021 or on a later date. The question of service of these notices and the date of service of notices upon the petitioners is of no relevance or consequence in all these writ petitions, as the notices itself have been dispatched from the office of the I.T. Department on or before 01.04.2021 which itself is beyond the period of limitation.*
>
> *17. It is relevant at this juncture to note that upon coming into force of the Finance Act, 2021, certain amendments were brought to the Income Tax Act, 1961 wherein Section 148 stood substituted with Section 148A by the Finance Act, 2021 w.e.f. 01.04.2021. In the landmark decision of the Hon'ble Apex Court in the case of Ashish Agarwal (supra) which has also been followed by practically every High Court in the country, held that for any notice of re-assessment on or after 01.04.2021 it would be the new amended law which would be governing the field, as the un-amended provisions were valid only till 31.03.2021.*

18. We leave that issue for the time being there itself.

19. It is necessary at this juncture to refer to the decision of the Madras High Court in the case of Smt. Parveen Amin Bhathara vs. Income-Tax Officer 7, wherein the learned Division Bench at paragraph No.12, after dealing with certain judicial precedents on the issue, has held as under, viz.,

"12. ....

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 31.03.2010, whereas the same were sent to the speed post centre for booking only on 07.04.2010. Considering the definition of the word issue, it is apparent that merely signing the notices on 31.03.2010, 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 07.04.2010, the date of issue of the said notices https://www.mhc.tn.gov.in/judis would be 07.04.2010 and not 31.03.2010, 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 [2022] 446 I.T.R. 201 (Mad) PSK,J & NTR,J wp_18098_2022&batch 07.04.2010, 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."

Thus, it is apparent from the aforesaid decisions that the issuance of notice under section 149 is complete only when the same is issued in the manner as prescribed under section 282 r/w rule 127 of the Income Tax Rules prescribing the mode of service of notice under the Act. The signing of notice would not amount to issuance of notice as contemplated under section 149 of the Act. In other words, the requirement of issuance of notice under section 149 is not mere signing of the notice under section 148, but is sent to the proper person within the end of the relevant assessment year."

20. Similar stand has also been taken by a Division Bench of the Allahabad High Court in the case of Daujee Abhushan Bhandar Pvt. Ltd. vs. Union of India and others 8. The

Division Bench, while dealing with the provisions of the Information Technology Act, 2000 at paragraph Nos.18, 19 and 20, held as under, viz.,

> *"18. Since Section 149 of the Act 1961 requires notice to be issued by Income Tax Authority, therefore, in terms of sub Section (1) of Section 282 A it has to be signed by that authority and to be issued in paper form or communicated in electronic form by that authority in accordance with procedure prescribed.*
>
> *19. The communication in electronic form has been prescribed in Rule 127 A of the Rules 1962 which provides a procedure for issuance of every notice or other document and the e-mail in [2022] 444 I.T.R. 41 (All.) PSK,J & NTR,J wp_18098_2022&batch electronic form/electronic mail which has to be issued from the designated e-mail address of such income tax authority.*
>
> *20. Thus, after digitally signing the notice the income tax authority has to issue it to the assessee either in paper form or through electronic mail. Sub-Section (1) of Section 13 of the Act 2000 provides that dispatch of an electronic record occurs when it enters a computer resource outside the control of the originator. The aforesaid sub Section (1) of Section 13 indicates the point of time of issuance of notice. Therefore, after a notice is digitally signed and when it is entered by the income tax authority in computer resource outside his control i.e. the control of the originator then that point of time would be the time of issuance of notice."*
>
> *21. Further, a Division Bench of the Madhya Pradesh High Court in the case of Yuvraj vs. Income-Tax Officer and others 9 held at paragraph Nos.4 to 7 as under, viz.,*
>
> *"4. The aforesaid newly inserted section 148-A now specifically provides for issuance of a notice if the Assessing Officer takes a decision to initiate re-assessment and therefore, a procedure has been laid down under section 148-A which is required to be adhered to by the Assessing Officer after 1/04/2021 i.e. the date on which the Finance Act, 2021 came into force.*
>
> *5. The counsel for the parties were heard and during the course of hearing, the counsel for respondent/revenue Shri Sanjay Lal produced a letter dated 24/02/2022 bearing no. 1002 issued by Income Tax Officer - 3 (1) of Bhopal which was addressed to the counsel for the revenue and in the said letter it was stated that (2022) 444 I.T.R. 329 (M.P.) PSK,J & NTR,J wp_18098_2022&batch though in the notice which was issued to the petitioner herein, the date was mentioned as 31/03/2021 but, the system of the office of the respondents revealed that the Email to the petitioner was in fact sent on 16/04/2021. Thus, the counsel for respondent does not dispute that the notice which is impugned in the petition*

contained in Annexure P/1 in fact was issued on 16/04/2021 though the date on the same was mentioned as 31/03/2021 but was issued later on 6/04/2021.

6. In view of the aforesaid letter so produced before us dated 24/02/2022 and in view of the admission by the counsel for respondents, we have no hesitation to hold that the impugned notice is bad in the eye of law, contained in Annexure P/1 dated 31/03/2021 (received by the petitioner on 16/04/2021 through Email) inasmuch as after 1/04/2021, it is mandatory requirement that prior to re-assessment proceedings notice under section 148-A of Income Tax Act, 1961 should be issued to assesseee. Since now in view of the admission by the respondents the other reliefs as sought for by the petitioner in the relief clause have become redundant inasmuch as now there is no dispute about the date of issuance of the impugned notice.

7. Accordingly, the impugned notice dated 31/03/2021 (served through Email to the petitioner on 16/04/2021) stands quashed. However, it is left open for the respondents to take recourse to the procedure laid down in newly enacted section 148-A of the Income Tax Act, 1961 if it is required under the law."

22. Recently, a Division Bench of the Delhi High Court also endorsing the view taken by the Allahabad High Court as well as the Madhya Pradesh High Court (supra), in the case of Suman Jeet PSK,J & NTR,J wp_18098_2022&batch Agarwal (supra), has elaborately dealt with the said issue and held as under, viz.,

"16.1. The expression "issued" has been judicially interpreted by the courts as framing of the order and taking necessary action to despatch the same. Therefore, mere generation of notice on the Income Tax Business Application portal does not satisfy the test of "issue" without proving that the same has been despatched within the time barring period. (Delhi Development Authority v. H. C. Khurana (1993) 3 SCC 196).

16.2. Even though the service of notice is not relevant, however, for determining if a notice has been validly issued, the notice should be sent forth and go beyond the control of the authority issuing the same, to conclude that it has been issued. (Kanubhai M. Patel (HUF) v. Hiren Bhatt or his successors to office [2011] 334 ITR 25 (Guj)).

16.3. The provisions of section 149 of the Act of 1961, does not contain the expression "Assessing Officer". Therefore, no distinction can be made between the "Assessing Officer" and "Income Tax Business Application portal" under section 149 of the Act of 1961. The time taken by the Income Tax Business Application software for triggering of e-mail is attributable to the Assessing Officer and since admittedly the impugned notices were despatched on April 1, 2021, or thereafter, the same are time barred.

16.4. The E-verification Scheme, 2021 issued by Central Board of Direct Taxes vide Notification bearing No. 137 of 2021, dated December 13, 2021 ([2022] 440 ITR (St.) 9) in paras 6, 9 and 11, states that affixation of digital signature certificate in e-proceedings PSK,J & NTR,J wp_18098_2022&batch is a mandatory requirement. In the absence of digital signature certificate, the impugned notices would be null and void.

16.5. The circular bearing No. 19 of 2019, dated August 14, 2019 ([2019] 416 ITR (St.) 140), issued by Central Board of Direct Taxes mentions that the allotment of a document identification number to the notice is a mandatory requirement prescribed by the aforesaid circular only to maintain the audit trail of the documents issued by the Department and to provide transparency in the process. The allotment of document identification number to the notice does not amount to issuance as sought to be contended by the Department in these proceedings.

16.6. Since the impugned notices have been issued in an electronic form, the provisions of section 2(1)(t), section 3, section 13, section 66A of the Act of 2000 would be relevant as the same govern electronic communication. In the present case, as per section 13 of the Act of 2000, the Income Tax Business Application system should be considered as the "originator". Therefore, the despatch of electronic record would occur only when the same enters a computer resource outside the control of the Income Tax Business Application and only after such despatch would the notice be deemed to have been issued.

16.7. The e-filing portal as viewed by the assessee clearly highlights the fact that there is a system in place for duly displaying the date on which the notice is "issued" by the jurisdictional Assessing Officer. However, for the impugned notices under consideration, the date of issuance is conspicuously not mentioned on any of the assessee's accounts on the e-filing portal. Illustratively the screen shot for PAN AAFCA 9047H is extracted below :

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Notice/Communication Reference ID : 100036566022		
Notice u/s.	Income Tax Business Application/AST/F/17/202122/1034161151(1) Document reference ID	Description : (Income Tax Business Application) Issue letter Submit Response
	Notice/Letter PDF	
Issued on : 13-Jul-2021		
	Seek/View Adjournment	
Notice/Communication Reference ID : 100033602029		

148 Notice u/s.	Income Tax Business Application/AST/S/ 148 /2020- 21 /1032044808(1) Document reference ID	Description : (Income Tax Business Application) Notice u/s. 148 View response of Income-tax Act, 1961.
	Notice/Letter PDF	
Issued on :		
	Seek/View Adjournment	

16.8. A conjoint reading of the relevant provisions of the Act of 1961 and Act of 2000, leads to the inescapable conclusion that for the notice to be validly "issued" it has to be digitally signed and should be out of the control of the originator for satisfying the test of "shall be issued" under section 149 of the Act of 1961.

16.9. The mere generation of notice on the Income Tax Business Application screen and signing the same is not sufficient for satisfying the test of "issued" and it is only when the notice has been despatched in terms of section 13 of the Act of 2000, would the same be declared to be issued. In this regard reliance has been placed on the judgment of the Supreme Court in Union of India v. G. S. Chatha Rice Mills (2021) 2 SCC 209, wherein the Supreme Court has held that a notification would be in effect from the time and date on which it was uploaded on the e-gazette and not the date mentioned in the notification."

... .

17.1. The details of the date and time of despatch of the impugned notices by the Income Tax Business Application servers are available with the respondent. In the case of Santosh Krishna HUF v. Union of India [2022] 449 ITR 457 (All), bearing Writ Tax No. 211 of 2022 and Mohan Lal Santwani v. Union of India [2022] 449 ITR 476 (All) bearing Writ Tax No. 569 of 2022, the Department provided the Allahabad High Court with the details of : (1) generation of notice ; (2) digital signing by the jurisdictional Assessing Officer, and (3) triggering of e- mail to the assessee. Further, the Allahabad High Court in Mohan Lal Santwani (supra) has directed that the date and time of triggering e- mail should be reflected in the e-filing portal accessed by the

assessee. Therefore, in the present cases, the aforesaid information, even though available is being withheld by the respondents.

17.2. In the writ petitions, wherein the e-mail was triggered by the Income Tax Business Application servers before March 31, 2021, the respondents have readily furnished the said information in their counter affidavits as is evidenced by the counter filed in W. P. (C) No. 3038 of 2022, titled as Sant Sandesh Media and Communication P. Ltd. v. ITO. However, in the petitions where the e-mail was triggered on April 1, 2021, or thereafter, the said information has been withheld and an untenable submission has been made by the respondents, that the notice is deemed to have been issued on mere generation of the notice on the Income Tax Business Application screen.

.. ..

18.1. As per section 148 of the Act of 1961, valid issuance of notice is a jurisdictional requirement not just a mere procedural requirement. There is a heavy onus on the Department to provide the date on which the impugned notices have been posted or the date and time on which the e- mail was sent from the e-mail ID of the jurisdictional Assessing Officer. (CIT v. Chetan Gupta [2016] 382 ITR 613 (Delhi)).

18.2. All impugned notices sent by e-mail have been issued from the designated e-mail address of the jurisdictional Assessing Officers, therefore, to allege that the triggering of e-mail by the Income Tax Business Application is separate from the jurisdictional Assessing Officer is factually incorrect. The process of triggering e-mail by the Income Tax Business Application software system is for and on behalf of the jurisdictional Assessing Officer and therefore, attributable to the jurisdictional Assessing Officer.

....

19.1. The screenshot annexed as annexure P-5 in W. P. (C) No. 4567 of 2022 shows that each notice in addition to a document identification number, also contains a communication reference ID ("CRI"). The communication reference ID is generated by the Income Tax Business Application portal to record the date of the issuance of the notice. Although the communication reference ID for the impugned notices issued under section 148 of the Act of 1961, is displayed on the e- filing portal, the date of issuance is conspicuously absent.

Notice/Communication Reference ID : 100040446529		
142(2) Notice u/s.	Income Tax Business Application/AST/F/142(1)/2021-22/1037155946 (1) Document reference ID	Description : (Income Tax Business Application) notice u/s. 142 View response of Income-tax Act 1961.
	Notice/Letter PDF	
Issued on : 23-Nov-2021		
Response due date : 8-Dec-2021	Seek/View Adjournment	
Notice/ Communication Reference ID : 100033640093		

19.2. Per contra, another screenshot annexed as annexure P-3 in the same writ petition, shows that in the case of other notices issued subsequently in 2021, to the same assessee, the date of issuance is duly mentioned along with the communication reference ID on the e-

filing portal. Relevant portion of the screen shot is extracted hereinbelow :

19.3. The date of issuance has been selectively withheld only with respect to the impugned notices, as providing the information would make it evident that the date of issuance even as per the Income Tax Business Application software system is April 1, 2021, or thereafter, as the software is also programmed to record the date of issuance as the date of despatch.

....

20.2. While referring to correspondence in the digitized world, the word "issued" has been replaced with the word "communicated" in section 282A of the Act of 1961.

Therefore, when a notice is in paper form, it has to leave the office of the concerned Authority for despatch to constitute a valid issuance. However, in digital form, the communication is instant and therefore, merely putting the notice into transmission cannot be deemed to be communication. To constitute a valid communication the notice has to be effectively sent out by the concerned authority to the assessee.

21.4. To demonstrate the aforesaid, annexure R-2 annexed with the Department's counter affidavit in W. P. (C) No. 856 of 2022 can be perused, which is the screenshot of the Income Tax Business Application screen of the assessee as visible to the jurisdictional Assessing Officer only. In this annexure, the Department itself has extracted the relevant portion of the screenshot, which has complete details of the time at which the e- mail was sent, time at which the e- mail was delivered, etc. evidencing that the date and time when the e-mail containing the impugned notice as an attachment was sent by the Income Tax Business Application servers, is duly available with the Department. The relevant extract of the screenshot is reproduced herein below :

Register Details

Despatch No.	Date of issue	PAN/TAN	Addressee name	Subject	Comm. Ref. No.	View documents	Mode of despatch	Date of despatch
	31-3-2021	AHIPG 3000F	Anand Goel	Notice u/s. 148	Income Tax Business Application/AST/S / 148 /2020-21/103211/6278(1)	Attachments	E-mail	

Sent E-mail (?)	E-mail delivery status	E-mail sent on	E-mail delivered on	Shared with e-Proceeding on
E-mail details	Delivered	01/04/2021 05 : 9 : 41 AM	01/04/2021 05 : 29 : 45 AM	03/04/2021 04 : 01 : 39 AM

……………………………………..

23.1. The impugned notice issued by the respondent was not served on the petitioner/assessee's registered e-mail ID and was sent to an unrelated e-mail ID. The petitioner learnt about the impugned notice PSK,J & NTR,J wp_18098_2022&batch

which was neither signed physically nor any digital signature certificate was appended, incidentally through its e-filing portal. Therefore, there has been no compliance of the provisions of section 149 of the Act of 1961, while issuing the impugned notice.

....

23. Further, the Division Bench, while dealing with the notices and reasons held as under, viz.,

25. Question No. (I) : Whether the jurisdictional Assessing Officer's act of generating notice in the Income Tax Business Application portal on March 31, 2021, without despatching the notice meets the test of the expression "shall be issued" in section 149 of the Act of 1961, and saves the notices from being time barred ?

....

26.6. Further, section 11 of the Act of 2000 is also of relevance :

"11. Attribution of electronic records.--An electronic record shall be attributed to the originator,--

(a) if it was sent by the originator himself ;

(b) by a person who had the authority to act on behalf of the originator in respect of that electronic record ; or

(c) by an information system programmed by or on behalf of the originator to operate automatically. . ."

26.7. In the present case, the "originator", as per section 2(za) of the Act of 2000, is indubitably the Department. The same is confirmed by the contents of the compliance affidavit. As stated in the compliance PSK,J & NTR,J wp_18098_2022&batch affidavit, the jurisdictional Assessing Officer is the Income-tax authority designated by the Department to generate and sign the section 148 notice on behalf of the Department. The Income Tax Business Application portal is an information system programmed by TCS for the Department to operate automatically. The Income Tax Business Application portal is the computer resource designated by the Department for (a) drafting the e-mail to which the notice is attached ; and (b) for despatching the said e-mail with notice to the assessee through e-mail ; as well as (c) for sharing the said notice on assessee's "My Account" on the e-filing portal. Hence, the jurisdictional Assessing Officer and Income Tax Business Application perform two inseparable and complementing functions for the Department, which together constitute generation of notice + drafting of the e-mail by the Income Tax Business Application e-mail software and its despatch through

dedicated Income Tax Business Application servers. Thus, whilst the Department is the attributed originator of the impugned notices within the meaning of section 11(c) of the Act of 2000, Income Tax Business Application portal is the "computer resource" under the control of the Department.

26.8. In the light of the aforesaid findings of this court, the submissions made by Zoheb Hossain, learned senior standing counsel for the Department, that the jurisdictional Assessing Officer and the Income Tax Business Application are distinct and that the jurisdictional Assessing Officer is the originator and hence not liable for delay in despatch, are untenable in law and facts.

26.9. Now, in order to determine when does "despatch", i. e., the transmission of electronic record or the notices in the present case, from the Department occur, we may first note the precedence set by several High Courts in the context of Income Tax Business Application. Under section 13 of the Act of 2000, various High Courts have concluded that the despatch of an electronic record occurs when it enters a computer resource outside the control of the originator, i. e., when the Income Tax Business Application's e-mail system is triggered and the e-mail leaves the Income Tax Business Application servers. (Daujee Abhushan Bhandar (supra), Yuvraj (supra), Advance Infradevelopers (P) Ltd. (supra)).

....

26.13. Typically, an e-mail service based on SMTP Model utilizes a chain of servers to transmit e-mail from the sender to the recipient. Once an e- mail is drafted and the sender presses the "send" button, the e-mail service, i. e., the user agent ("UA") of the sender transmits it to the message transfer agents ("MTAs"), i. e., servers of the sender's e-mail service. Through a sequence of such message transfer agents, i. e., servers, the e- mail reaches the destination message transfer agents, i. e., server of the recipient's e-mail service. In case the recipient is using an intermediary server, it reaches the intermediary message transfer agents, i. e., server of the intermediary. It thereafter, finally reaches the recipient. In the case on hand, the Department's e-mail service is the Income Tax Business Application e-mail software system and the assessee's e-mail service is G-mail, Outlook, etc. The Income Tax Business Application e-mail software uses dedicated servers for transmitting e-mails and therefore the e-mail is despatched when the same leaves the Income Tax Business Application servers for the recipient assessee's designated e-mail service servers. A simplified illustration of the SMTP model showing this process, as confirmed by the counsel for the petitioners and respondents, is reproduced hereinunder :

26.14. For the purpose of this illustration, the double arrows indicate transmission between computer resources that are of the Income Tax Business Application e-mail software system and therefore, within the control of the Department ; and the single

arrows indicate transmission between computer resources that are within the control of or used by the assessee.

26.15. This illustration, as verified by the respondents, attests to the fact that the message transfer agents, i. e., server of the Income Tax Business Application is a computer resource belonging to the Department. As established earlier, the Department is the originator as per section 11(c) of the Act of 2000, hence, the despatch occurs when it leaves the last message transfer agents, server of the Income Tax Business Application and enters a computer resource that the Department does not have control over, i. e., the message transfer agents server of the e-mail service that the assessee is using.

....

31. For the reasons and principles that we have laid down, we dispose of these writ petitions with the following directions :

31.1. Category "A" : The notices falling under category "A", which were digitally signed on or after April 1, 2021, are held to bear the date on which the said notices were digitally signed and not March 31, 2021. The said petitions are disposed of with the direction that the said notices are to be considered as show-cause notices under section 148A(b) of the Act as per the directions of the apex court in the Ashish Agarwal, (supra) judgment.

31.2. Category "B" : The notices falling under category "B" which were sent through the registered e-mail ID of the respective PSK,J & NTR,J wp_18098_2022&batch jurisdictional Assessing Officers, though not digitally signed are held to be valid. The said petitions are disposed of with the direction to the jurisdictional Assessing Officers to verify and determine the date and time of its despatch as recorded in the Income Tax Business Application portal in accordance with the law laid down in this judgment as the date of issuance. If the date and time of despatch recorded is on or after April 1, 2021, the notices are to be considered as show-cause notices under section 148A(b) as per the directions of the apex court in the Ashish Agarwal (supra) judgment.

31.3. Category "C" : The petitions challenging notices falling under category "C" which were digitally signed on March 31, 2021, are disposed of with the direction to the jurisdictional Assessing Officers to verify and determine the date and time of despatch as recorded in the Income Tax Business Application portal in accordance with the law laid down in this judgment as the date of issuance. If the date and time of despatch recorded is on or after April 1, 2021, the notices are to be considered as show-cause notices under section 148A(b) as per the directions of the apex court in the Ashish Agarwal (supra) judgment.

> *31.4. Category "D" : The petitions challenging notices falling under category "D" which were only uploaded in the e-filing portal of the assessees without any real time alert, are disposed of with the direction to the jurisdictional Assessing Officers to determine the date and time when the assessees viewed the notices in the e-filing portal, as recorded in the Income Tax Business Application portal and conclude such date as the date of issuance in accordance with the law laid down in this judgment. If such date of issuance is determined to be on or after April 1, 2021, the notices will be construed as issued PSK,J & NTR,J wp_18098_2022&batch under section 148A(b) of the Act of 1961 as per the Ashish Agarwal (supra) judgment.*
>
> *31.5. Category "E" : The petitions challenging notices falling under category "E" which were manually despatched, are disposed of with the direction to the jurisdictional Assessing Officers 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 April 1, 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."*

24. With the aforesaid judicial precedents and the fact that the Delhi High Court has extensively dealt with these contentions (which have also been the contention of the learned Senior Standing Counsel for the Income Tax, for the respondents, in the present batch of writ petitions), and rendered the judgment in favour of the assessee, and which has not been further challenged by the respondent-Department till now. Therefore, we also are fully in agreement and endorse the views laid down by the Division Bench of the Delhi High Court in the case of Suman Jeet Agarwal (supra) and hold that the impugned notices in all these batch of writ petitions are barred by limitation under Sections 148 and 149 of the Act, since the said notices have left the I.T.B.A. portal on or after 01.04.2021."

10. On perusal of above, we find that after analysing the entire law relating to issuance of notice under section 148 of the Act, and relying upon the judgment of the Hon'ble Delhi High Court in the case of Suman Jeet Agarwal v. ITO (449 ITR 517), the Hon'ble Telangana High Court has held that the date and time mentioned in the email by which the notice is communicated to the assessee shall be treated as the date of issuance of the notice for the purposes of section 148 of the Act. The Hon'ble High Court has further held that mere uploading or generation of the notice on the Income-tax portal does not

amount to “issuance” unless the same is actually communicated to the assessee, and that the electronic evidence reflecting the date and time of email communication is determinative for this purpose. Respectfully following the said binding precedent, we hold that notwithstanding the Revenue’s contention that the notice may have been generated or dispatched on the portal on 31.03.2021, the notice under section 148, for the purposes of the Act, must be treated as having been issued on 01.04.2021, being the date and time reflected in the email communication sent to the assessee.

11. Once it is held that the notice under section 148 was issued on 01.04.2021, the reassessment proceedings are governed by the substituted reassessment regime introduced by the Finance Act, 2021, with effect from that date, as held by the hon’ble Telangana High Court at para no. 17 of the order. Under the said regime, compliance with the mandatory procedure prescribed under section 148A of the Act is a condition precedent for issuance of a notice under section 148 of the Act. In the present case, it is an admitted position that the Ld. A.O. has not followed the procedure prescribed under section 148A of the Act prior to issuance of the notice under section 148 of the Act. Consequently, the notice issued under section 148 of the Act is void ab initio, and the assessment framed on the basis of such invalid notice cannot be sustained.

12. In view of the foregoing discussion, grounds nos. 2 and 3 raised by the assessee are allowed, and the assessment order passed under section 147 read with sections 144 and 144B of the Act dated 29.03.2022 is hereby quashed.

13. Since the appeal has been decided in favour of the assessee on the legal ground, the other grounds raised by the assessee are not adjudicated and are left open.

14. In the result, the appeal of the assessee in ITA No.589/Hyd/2024 is allowed.

ITA No. 549/HYD/2024 :

15. At the outset, we note that there is a delay of 26 days in filing the present appeal before this Tribunal. The assessee has filed a condonation petition along with an affidavit, explaining the reasons for the delay. In this regard, the Ld. AR submitted that the order of the Ld. CIT(A) was communicated to the assessee by email on 27.02.2024. Since the assessee could not understand the contents of the said email, the same was forwarded to his auditor. The auditor, after examining the communication, informed the assessee that the said email contained the appellate order and that an appeal against the said order was required to be filed before the Tribunal on or before 27.04.2024. It was submitted that during the said period, the assessee suddenly fell ill and was also suffering from old age-related ailments, due to which he was unable to take timely steps for filing the appeal. Owing to his ill health and unavoidable circumstances, the appeal could not be filed within the prescribed period, resulting in a delay of 26 days. It was contended that the delay was neither intentional nor deliberate and was caused due to circumstances beyond the control of the assessee. Accordingly, a prayer was made for condonation of delay in the interest of justice.

16. Per contra, the Ld. DR objected to the condonation of delay, submitting that the assessee has failed to show sufficient cause for the delay. She placed reliance on the following judicial precedents:

a. *Manjit Singh v. Balwinder Singh & Ors. (Punjab & Haryana High Court, FAO-5480-2024, dated 26.11.2024),*

b. *Balwant Singh v. Jagdish Singh & Ors. (Hon'ble Supreme Court, Civil Appeal No.1166 of 2006, dated 08.07.2010),*

c. *Pathapati Subba Reddy(Died) by L.Rs. & Ors. Vs. The Special Deputy Collector (LA) (SLP (C) No.31248 of 2018, dated 08.04.2024),*

d. *Jharkhand Urja Utpadan Nigam Ltd. & Anr. Vs. Bharat Heavy Electricals Ltd. (Petition for Special Leave to appeal (C) No.9580 of 2025, dated 15.04.2025), and*

e. *the decision of this Tribunal in Star Organic Foods Inc. vs. ACIT in ITA No.715/Hyd/2025 for A.Y. 2018–19 dated 18.07.2025.*

On the basis of the above decisions, the Ld. DR submitted that the delay deserves to be dismissed.

17. We have carefully considered the rival submissions and perused the material available on record including case laws relied upon. On examination of the judicial precedents relied upon by the Ld. DR, we find that in all those cases, the courts had not condoned the delay due to the reason that there was no sufficient cause for the delay. However, the facts of the present case are clearly distinguishable. In the present case, the delay has occurred due to the assessee's inability to understand the appellate order communicated through email, coupled with his ill health and old age-related ailments during the relevant period. The explanation offered by the assessee is supported by an affidavit and, in our considered view, reflects a bona fide and reasonable cause. We find that the delay is short and marginal, being only 26

days, and there is nothing on record to suggest that the assessee acted with mala fide intention or deliberate negligence. In this context, we find guidance from the judgment of the Hon'ble Supreme Court in Vidya Shankar Jaiswal Vs. CIT 174 taxman.com 21, wherein it has been held that a liberal and justice-oriented approach should be adopted while dealing with applications for condonation of delay. Therefore, considering the totality of facts and circumstances, and in the interest of substantial justice, we are satisfied that the assessee has shown sufficient cause for the delay in filing the appeal. Accordingly, the delay of 26 days in filing the appeal is condoned, and the appeal is admitted for adjudication on merits.

18. The assessee has raised the following grounds of appeal :

" 1. On the facts and in the circumstances of the case the order passed by the National Faceless Appeals Centre(hereinafter referred to as NFAC) is erroneous both on facts and in law.

2. The NFAC erred in upholding the order passed by the Assessing Officer which was passed without following the new procedure prescribed under 148A/148/147/144B/151A effective from 01.04.2021 even though notice u/s 148 dt.31.03.2021 was issued on 01.04.2021, which is evident from the Income tax Portal.

3. The NFAC erred in not considering the vital aspect that the procedure prescribed u/s 148A of the Act was not followed and the impugned order u/s 147 r.w.s. 144B has been passed and thus the Assessment order being void ab initio and bad in law, deserved to be quashed by NFAC.

4. The NFAC erred in confirming the addition made by the AO amounting to ₹13,56,61,747/- treating cash deposits made in the bank account of the appellant as unexplained money even though it was explained that the entire amount represents turnover of the appellant from, which was evident from its audited books of accounts and declared in the return of income filed for the relevant Assessment Year.

5. The NFAC erred in confirming the order passed by the AO wherein the detailed explanations as well as the documentary evidences provided by the appellant such as purchase invoices, audited books of accounts, etc., were not properly considered thereby depriving the appellant an effective opportunity of hearing and hence violating the principles of natural justice.

6. The NFAC erred in confirming the order passed by the AO without pointing out as to how the cash deposits did not form a part of the total turnover of the business of the appellant, but were incomes/monies earned/received from other sources/Transactions which were not declared in the return of income or remined undisclosed.

7. The NFAC erred in confirming the order passed by the AO since neither the AO nor the NFAC provided clarity on what are the specific evidences or documents that they were looking for to satisfy themselves that the transactions were genuine and the entire cash deposits formed a part of Appellant's turnover which was already declared in its return of income.

8. The NFAC erred in confirming the order passed by the AO wherein NFAC did not provide proper reasons for relying on the conjectural conclusions drawn by the assessing officer.

9. The NFAC erred in confirming the order passed by the AO wherein the auditor's report was considered incorrect only due to a typographical error and hence the entire audited accounts could not have been rejected without bringing on record any other material/evidence.

10. The NFAC erred in referring to judicial decisions which are not applicable to the facts of the present case and without appreciating the merits of the case and the documentary evidence is placed on record.

11.The NFAC erred in confirming the addition of the AO wherein the cash deposits are treated as Unexplained money u/s 69A even though the appellant has produced audited books of accounts and explained the cash deposits to form part of its turnover and has also filed its return of income for the relevant assessment year.

12.The tax authorities omitted to consider the ratio laid down by the Honourable Madras High Court in the case of CIT vs Indian Express (Madurai) 1983 140 ITR 705 (Mad) (HC) wherein the Court observed that Income-tax proceedings cannot be equated to a lis between two parties since the object is to arrive at the correct taxable income and in this backdrop the tax authorities ought to have taken into consideration the fact that the cash deposits are supported by a source and thus invoking provisions of section 69A is bad in law.

13.For these and other grounds that may be urged at the time of hearing, appellant prays that the Hon'ble Tribunal may be pleased to delete the arbitrary additions made and upheld by the lower authorities."

19. The legal issue involved in ground nos. 2 & 3 of the present appeal is identical to the legal issue involved in ITA No. 589/Hyd/2024. Therefore, in the first instance, we are required to determine the date of issuance of notice under section 148 of the Act. In this regard, the Ld. AR invited our attention to the screenshot of the Income-tax portal placed at page no.2 of the paper book, wherein the date of issue of notice under section 148 of the Act is reflected as 01.04.2021. On the basis of the said documentary evidence, it was contended that the notice under section 148 of the Act should be treated as having been issued on 01.04.2021.

20. Per contra, the Ld. DR invited our attention to the screenshot of the ITBA portal placed at page no. 11 of the paper book and submitted that the notice under section 148 of the Act had been dispatched through email on 31.03.2021. Accordingly, it was contended that the notice under section 148 was issued by the Ld. A.O. on 31.03.2021, and therefore the date of issue of notice should be treated as 31.03.2021.

21. We have considered the rival submissions and perused the material available on record. We have gone through the screenshot of the ITBA portal of revenue placed at page no. 11 of the paper book, which is to the following effect :

---Space left intentionally----

Home > View/Enter Dispatch Details

Emails marked as 'Email Sent' are triggered from System and delivery status is awaited.

View/Enter Dispatch Details

- If there are Multiple attachments, then please Zip them and attach.
- Dispatch Date once entered and saved will not be allowed to change

Search Criteria

PAN/TAN: AAGFD1940C | Name(Contains): | Mode: Select

Date of Issue *: 01/03/2021 – 20/04/2021 | Date Of Dispatch: From – To | Date of Service: From – To

Status *: Dispatched | Module *: All (except Investigation) | Document Number:

Option to add Date of Dispatch or Date of Service: ○ Dispatch ○ Service | Date: | Search | Reset | Proceed

Register Details

	Dispatch No	Date of Issue	PAN/TAN	Addressee Name	Subject	Comm. Ref. No.	View Document	Mode of Dispatch	Date of Dispatch	Date of Service	Status *	Rema
1	3103210224	31/03/2021	AAGFD1940C	clients.gupthas@gmail.com	Notice u/s 148	ITBA/AST/S/148/2020-21/1032062230(1)	Attachments	Email	31/03/2021		Dispatched	
2	3103210225	31/03/2021	AAGFD1940C	DESU ENTERPRISES	Notice u/s 148	ITBA/AST/S/148/2020-21/1032062230(1)	Attachments	Email	31/03/2021		Dispatched	
3	3103210068	31/03/2021	AAGFD1940C	DESU ENTERPRISES	Print Approval	ITBA/AST/S/118/2020-21/1032026156(1)	Attachments	Email	31/03/2021		Dispatched	

"Certified Copy"

K. Swarna Latha

के. स्वर्ण लता
K. SWARNA LATHA
आयकर अधिकारी
INCOME TAX OFFICER
वार्ड-1, ओंगोल
Ward-1, ONGOLE.

22. The revenue has also filed the copy of the dispatched email placed at page no.13 of the paper book, which is to the following effect :

Send Email

Send Email

From: ONGOLE.ITO1@INCOMETAX.GOV.IN

To: clients.gupthas@gmail.com

CC:

Sent Time Stamp:

Delivered Time Stamp:

Delivery Status: Email Sent

Subject: [ITBA]Notice under section 148 of the Income Tax Act, 1961

Styles | Format | Font | Size

Dear DESU ENTERPRISES,

Please find attached the Notice u/s 148 for PAN:AAGFD1940C and AY:2015-16.

Please quote your PAN in all future correspondences.

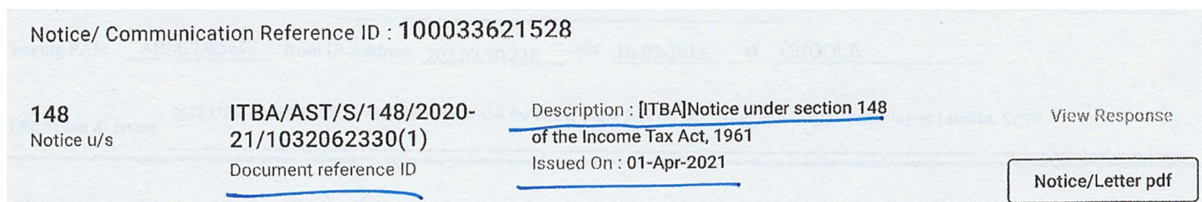
Note:

// CERTIFIED COPY //

© 2018-2019 Income Tax Department, Government of India

TATA Consultancy Services

23. On perusal of the above, we find that the copy of the dispatched email does not reflect either the date or the time of sending of the email to the assessee. Thus, the document relied upon by the Revenue does not conclusively establish that the notice was issued or communicated prior to 01.04.2021. On the other hand, we have gone through the screenshot of the Income-tax portal placed at page no. 2 of the paper book filed by the assessee, which is to the following effect :


Notice/ Communication Reference ID : 100033621528

148 Notice u/s | ITBA/AST/S/148/2020-21/1032062330(1) Document reference ID | Description : [ITBA]Notice under section 148 of the Income Tax Act, 1961 Issued On : 01-Apr-2021 | View Response Notice/Letter pdf

24. On perusal of above, we find that on the Income Tax portal of the assessee, it has been specifically mentioned that the notice under section 148 of the Act was issued on 01.04.2021. We also note that in ITA No. 589/Hyd/2024, the date of dispatch of the notice as per the ITBA portal relied upon by the Revenue was shown as 31.03.2021, whereas the date and time of sending of the notice, as reflected in the email communication placed on record, was 01.04.2021. Thus, even in that case, there was a clear distinction between the date of dispatch as per the portal and the date of actual communication of the notice through email. Therefore, it is evident that the date of dispatch as per the ITBA portal and the date of communication of notice through email may not necessarily be the same. In the present case, while the Revenue has failed to place any documentary evidence reflecting the date and time of communication of the notice through email, the screenshot of the Income-tax portal placed on record by the assessee clearly reflects the date of issue of notice as 01.04.2021. In view of the above facts, we are of the

considered opinion that the revenue has not brought any cogent material on record to substantiate its contention that the notice under section 148 of the Act was issued prior to 01.04.2021. Accordingly, we hold that the date of issue of notice under section 148 of the Act in the present case is 01.04.2021.

25. There is also no dispute about the fact that in the present case, the Ld. A.O. has not followed the mandatory procedure prescribed under section 148A of the Act before issuance of the notice under section 148 of the Act. Once it is held that the notice under section 148 of the Act was issued on 01.04.2021, our findings and observations rendered in ITA No. 589/Hyd/2024 squarely apply to the present appeal. Accordingly, we hold that the notice issued under section 148 of the Act on 01.04.2021, without complying with the mandatory procedure prescribed under section 148A of the Act, is invalid in law, and the assessment order passed by the Ld. A.O. on the basis of such invalid notice is liable to be quashed.

26. Since the present appeal has been decided in favour of the assessee on the legal ground, the other grounds raised by the assessee are not adjudicated and are left open.

27. In the result, the appeal of the assessee in ITA No.549/Hyd/2024 is allowed.

28. To sum up, both the appeals of the assessees are allowed.

Order pronounced in the open Court on 7th Jan., 2026.

Sd/-	Sd/-
(**RAVISH SOOD**)	(**MADHUSUDAN SAWDIA**)
JUDICIAL MEMBER	ACCOUNTANT MEMBER

Hyderabad,
Dated:07.01.2026.

** Reddy gp/PVV*

<u>Copy of the Order forwarded to</u> :

1. a. M/s. Desu Enterprises, A.S. Industrial Estate, Kurnool Road, Ongole-523001 A.P.
   b. Shri Thalla Srisailam Goud, H.No.2-19, Sheriguda, Ibrahimpatnam, R.R. District-501506
2. a. ITO, Ward-1, Ongole.
   b. ITO, Ward 9(1), Hyderabad.
3. Pr.CIT, Vijayawada / Pr. CIT, Hyderabad.
4. DR, ITAT, Hyderabad.
5. Guard file.

BY ORDER,