

आयकर अपीलीय अधिकरण, कटक न्यायपीठ, कटक
IN THE INCOME TAX APPELLATE TRIBUNAL CUTTACK BENCH CUTTACK
(THROUGH VIRTUAL HEARING)

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER
AND
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

आयकर अपील सं/ITA No.585/CTK/2025
(निर्धारण वर्ष / Assessment Year : 2016-2017)

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| Arpita Jena, A-60, Palashpalli, Bhubaneswar-751020 Dist : Khurda, Odisha | Vs | ITO, Ward-3(1), Bhubaneswar |
| PAN No. : ANEPJ 7345 N | | |
| (अपीलार्थी / Appellant) | .. | (प्रत्यर्थी / Respondent) |
| निर्धारिती की ओर से / Assessee by | : | Miss Sarmila Agarwal, CA |
| राजस्व की ओर से / Revenue by | : | Shri Vijay Singh, Sr. DR |
| सुनवाई की तारीख / Date of Hearing | : | 02/02/2026 |
| घोषणा की तारीख/Date of Pronouncement | : | 02/02/2026 |

आदेश / ORDER

Per George Mathan, JM :

This is an appeal filed by the assessee against the order dated 20.08.2025 passed by Id. CIT(A), National Faceless Appeal Centre (NFAC), Delhi, for the assessment year 2016-2017.

2. It was submitted by the Ld.AR that the assessee had purchased a property for Rs.79,00,000 in September 2015 and had sold the same on 7th September 2015 on consideration Rs.75,00,000/-. The assessee had not filed its return for the impugned assessment year as the assessee did not have taxable income. The AO issued notice u/s.148 of the Act on the ground that the assessee had sold the immovable property for Rs.75,00,000/- as return had not been filed. The reasons recorded is as follows:-

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GOVERNMENT OF INDIA
MINISTRY OF FINANCE
INCOME TAX DEPARTMENT
OFFICE OF THE INCOME TAX
OFFICER
ITO, WARD 3(1), BHUBANESWAR/

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|--|--|
| To, ARPITA JENA A-60 , PALASHPALLI BHUBANESWAR 751020 , Odisha India | |
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|--------------------|-----------------|----------------------|--|
| PAN: ANEPJ7345N | A.Y: 2016-17 | Dated: 09/03/2023 | DIN & Notice No: ITBA/AST/F/148A(SCN)/2022- 23/1050561078(1) |
|--------------------|-----------------|----------------------|--|

Notice under clause(b) of section 148A of the Income-tax Act,1961

Sir/Madam/M/s

Whereas I have information which suggests that income chargeable to tax for the Assessment Year 2016-17 has escaped assessment within the meaning of section 147 of the Income-tax Act, 1961. The details of the information/ enquiry conducted on which reliance is being placed, along with supporting documents, are enclosed with this notice.

- 2.You are required to show-cause as to why, in view of the details contained in enclosures mentioned in point number 1 above, a notice section 148 of the Income tax Act, 1961 should not be issued.
- 3.You may submit your reply to this notice, along with supporting documents (if any) on the above mentioned issues on or before **17/03/2023** electronically at www.incometax.gov.in.

KALPATARU SWAIN
ITO, WARD 3(1), BHUBANESWAR/

Note: If digitally signed, the date of digital signature may be taken as date of document.
PRATYAKSHA KAR BHAWAN, THIRD FLOOR, REGIONAL TELECOM TRG CENTRE, VSS NAGAR ROAD, BHUBANESWAR, Odisha, 751007
Email: BHUBANESWAR.ITO3.1@INCOMETAX.GOV.IN,

Note:- The website address of the e-filing portal has been changed from www.incometaxindiaefiling.gov.in to www.incometax.gov.in.
* DIN- Document identification No.

Jena

ANEPJ7345N- ARPITA JENA
A.Y. 2016-17
ITBA/AST/P/149A(SCN)/2022-23/1050561078/11

ANNEXURE

As per information available with the department it is noticed that you have Sold Immovable Property for Rs. 75, 00,000/- during the F.Y. 2015-16 relevant to the A.Y. 2016-17. However, you have not filed your Income Tax Return (ITR) for the Asst. Year 2016-17.

Please note that since, this is a time barring matter, no further opportunities will be given.

KALPATARU SWAIN
ITO, WARD 3(1), BHUBANESWAR/

(In case the document is digitally signed please refer Digital Signature at the bottom of the page)



3. It was the submission that the assessee had responded the same on 17/03/2023 wherein all the details were mentioned which reads as follows:-

BEFORE THE INCOME TAX OFFICER
WARD-3(1), PRATYAKSHA KAR BHAWAN,
THIRD FLOOR, REGIONAL TELECOM TRG CENTRE,
VSS NAGAR ROAD, BHUBANESWAR, Odisha, 751007

In the matter of ARPITA JENA
Plot No.-A-60, PALASHPALLI,
BHUBANESWAR-751020, ODISHA
PAN-ANEPJ7345N

And

In the matter of Objection to the information supplied by
you u/s 148A(b) of the Income Tax Act,
1961 (Herein after referred as the Act)
for reopening of the case vide DIN/Letter
No. ITBA/AST/F/148A(SCN)/2022-23/
1050561078(1) dated 9th March 2023, for
the Asst. Year 2016-17

MOST RESPECTFULLY SWETH:

1. That, for the Asst. Year 2016-17, the assessee did not have the income exceeding the exemption limit as prescribed under the Income Tax, therefore she had not filed the return of income. However in the impugned assessment year the assessee purchased a property costing of ₹ 79.00 Lakhs which had been sold in the same assessment year for a consideration of ₹ 75.00 Lakhs. Presently your good self issued the show cause notice u/s 148A(b) dated 9th March 2023 fixing the date of compliance on 17th March 2023. The reason for issuance on show cause notice are as under;

As per the information available with the Income Tax Department the assessee had sold the property for a consideration of ₹ 75.00 Lakhs, however she had not filed the return of income.

On the above ground, your good self had issued the show cause notice u/s 148A(b).

2. That, presently your good self has issued the show cause notice u/s 148A(b) and before coming to the facts pointed out in the notice, the assessee brings your kind attention to the provisions of section 148A of the Act which provides that before issuance of notice u/s 148A(b) the AO must be in possession of the information and on the basis of information in his possession, he has to conduct

an enquiry with the prior approval of the specified authority to ascertain the correctness of the information which he possess and thereafter only, he is permitted to issue the notice u/s 148A(b). But in the instant case, from the notice issued u/s 148A(b) nothing such instances emerge which could lead to the conclusion that you had conducted the enquiry with the prior approval of the specified authority, as the facts pointed out in the notice specifies the information available with the department only. Hence the present notice was issued without complying to the mandatory requirements of the law and not sustainable.

3. That, from the facts termed in the notice issued u/s 148A(b) does not assail that there is an escapement of income which empowers your good self to issue the show cause notice 148A(b) as there is no such allegation in the notice itself. Further with regard to the sale of property for consideration of ₹ 75.00 lakhs it is submitted that On 3rd September 2015, the assessee had purchased the property for consideration of ₹ 79.00 Lakhs which was sold on 7th December 2015 for a consideration of ₹ 75.00 Lakhs. For your ready reference copy of both the sale deeds are enclosed herewith as **Annexure-1 & 2**. So in the process the assessee had earned the short term capital loss of ₹ 4.00 Lakhs. Thus there is no income or capital gain arose from the sale of the property.
4. Further it is bring to your kind knowledge that, the assessee did not have the taxable income which exceeds the maximum exempted amount (i.e. ₹ 2,50,000) which obligates on the part of the assessee to file the Return of Income. For your ready reference copy of the computation of total income is enclosed herewith as **Annexure-3**. Thus non-filing of Return of Income cannot be the ground for reopening of the assessment and hence the issuance of notice is contrary to the provisions of the law and the proceeding is liable to be dropped.
5. Without prejudice to the submission made herein above it is humbly submitted that, the CBDT has vide notification no. 18/2022 dated 29th March 2022 notified the faceless reassessment scheme with effect from 29th March 2022. On perusal of the scope of the faceless reassessment scheme, it is safely concluded that from 29th March 2022, the show-cause notice u/s 148A(b) should have been issued only by the National Faceless Assessment Centre ("NFAC") and not by the Jurisdictional Assessing Officer ("JAO"). Therefore, show cause notice issued by any authority other than NFAC is an illegal notice and without jurisdiction. Reliance is placed on the Ahmedabad Tribunal in the case of **ACIT vs. Resham Petrotech Ltd (2021) (21 taxmann.com 161)** wherein it has been held that notice u/s 148 of the Act can be issued only by the AO having jurisdiction over the Assessee. Notice issued by any other officer will be invalid and vitiate the entire proceedings. Post 29.03.2022, the jurisdiction would lie with NFAC, and hence

the issuance of show cause notice by NFAC is a mandatory requirement and in the absence of the same, the entire proceeding becomes void ab initio.

6. Further it is submitted that, if you are not satisfied with the submission made herein above by the assessee, personal hearing should be given in the interest of justice, to explain before proceeding to further on the matter.

PRAYER

In the context aforesaid, your honour may kindly be pleased to drop the reassessment proceedings by passing an order u/s 148A(d) and no notice to be issued u/s 148 of the Act and for this act of your kindness the assessee shall remain ever pray and duty bound.

Place: Bhubaneswar
Date: 17.03.2023

S/d-
Arpita Jena

4. It was the submission that the AO did not accept the response of the assessee and had reopened the assessment and completed the assessment. It was submission that in the assessment no addition has been made on account of the reasons recorded for the purpose of the reopening. It was submission that the addition has been made in respect of the source for the purchase of property. It was submission that the in view of the decision of the Hon'ble Supreme Court in the case of Jet Airways (I) Ltd., reported in (2011) 331 ITR 236 (Bom) and the decision of the Hon'ble Madras High Court in the case of Anand Cine Services (P) Ltd., reported in (2024) 8 NYPCTR 284 (Mad), wherein the Hon'ble Madras High Court has categorically held that section 147 of the Act enables the Assessing Officer to travel beyond the reasons for initiating reassessment proceedings provided such reassessment is also carried out on the grounds or reasons on which reassessment was initiated. On the other hand, if the ground on

which reassessment was initiated was no longer available to the Assessing Officer, reassessment cannot be continued on the basis of the original notice u/s.148 of the Act and that a fresh notice is necessary. The AO having not made any addition on the basis of the reasons on which the reopening was done, the reopening is held to be bad in law and consequently quashed. Accordingly, the consequential assessment order also stands quashed.

5. In the result, the appeal of the assessee is allowed.

Order dictated and pronounced in the open court on 02/02/2026.

Sd/-
(LAXMI PRASAD SAHU)

लेखा सदस्य/ **ACCOUNTANT MEMBER**

Sd/-
(GEORGE MATHAN)

न्यायिक सदस्य / **JUDICIAL MEMBER**

दिनांक Dated 02/02/2026

Prakash Kumar Mishra, Sr.P.S.

आदेश की प्रतिलिपि अग्रहित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant-
2. प्रत्यर्थी / The Respondent-
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, कटक / DR, ITAT, Cuttack
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

(Assistant Registrar)

आयकर अपीलीय अधिकरण, कटक/ITAT, Cuttack