IN THE INCOME TAX APPELLATE TRIBUNAL
"D" BENCH MUMBAI

BEFORE SHRI SAKTIJIT DEY, VICE PRESIDENT &
SHRI MAKARAND VASANT MAHADEOKAR, ACCOUNTANT MEMBER

ITA No. 7769/Mum/2025
(Assessment Year: 2015-16)

Darshana Jatin Shah 703 Deepjyot building, Shimpoli Road, Kastur Park, Borivali West, S.O. Mumbai-400 092	Vs.	**ITO Ward-19(1)(1),** Piramal Chamber, Dr. SS Rao Marg, Mumbai-400 012
PAN/GIR No. BFNPS9695L		
(Applicant)		(Respondent)

Assessee by	Ms. Kinjal Bhuta, Ld. AR
Revenue by	Shri Annavaram Kosuri, Ld. DR

Date of Hearing	12.02.2026
Date of Pronouncement	18.02.2026

आदेश / ORDER

PER MAKARAND VASANT MAHADEOKAR, AM:

This appeal is filed by the assessee against the order dated 30.09.2025 passed by the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [hereinafter referred to as "CIT(A)"], under section 250 of the Income-tax Act, 1961 [hereinafter referred to as "the Act"]for Assessment Year 2015-16.

Facts of the Case

2. The assessee is an individual. For the year under consideration, no return of income was filed under section 139(1).Based on information available, the case was reopened on the ground that the assessee had undertaken certain financial transactions during the relevant previous year, namely, substantial cash deposits in bank accounts, purchase of immovable property, interest income reflected in Form 26AS, etc. Notices under sections 148A(b), 148 and 142(1) were issued. According to the Assessing Officer, there was non-compliance to the notices and therefore assessment was completed ex parte under section 144 read with section 147 of the Act.

3. Before the Assessing Officer, the assessee submitted that she is a senior citizen deriving small income from tuition classes and sale of homemade items and her income was below taxable limit. It was also submitted that cash deposits represented accumulated savings, savings of her late husband, and transfers from her daughter residing abroad. It was further submitted that certain bank accounts were wrongly considered and amounts were double counted and property was jointly purchased with her daughter and certain payments were made in subsequent financial year.

4. The Assessing Officer, however, held that the explanations were not substantiated with satisfactory evidence and proceeded to make following additions:

i. Addition under section 69A on account of unexplained cash deposits – Rs. 1,12,33,500/-.

ii. Addition under section 69 on account of alleged unexplained investment in property – Rs. 33,00,000/-.

iii. Addition on account of interest income – Rs. 4,17,276/-.

Thus, total income was assessed at Rs. 1,49,50,776/-.

5. The assessee preferred appeal before CIT(A). Before the Ld. CIT(A), the assessee raised legal as well as factual grounds. The assessee contended that notices under sections 148A(b), 148 and order under section 148A(d) were not validly served and therefore the reassessment proceedings were vitiated for want of proper service. It was also contended that the notice under section 148 was issued by the Jurisdictional Assessing Officer and not in accordance with section 151A and the faceless reassessment scheme. It was further contended that the sanction under section 151 was mechanical and copy thereof was not provided.

6. On merits, the assessee reiterated the double counting of cash deposits, incorrect computation of interest income, joint ownership of property and payment in subsequent year and non-grant of TDS credit.

7. The Ld. CIT(A), after considering the submissions, on the issue of service of notice, observed that notices were uploaded on the portal and alternate modes of service as per CBDT SOP were not followed. It was held that the assessment suffered from legal

infirmity. However, the appeal was not allowed on that ground alone.

8. On addition under section 69A, it was found that Rs. 49,55,500/- was wrongly double counted. To that extent, addition was deleted and balance addition of Rs. 62,78,000/- was sustained. On addition under section 69, it was held that property was jointly purchased and payments were reflected in subsequent year. Addition of Rs. 33,00,000/- was deleted. On interest income duplication was noticed. Correct interest income was determined at Rs. 1,79,764/-.Relief was granted accordingly. TDS credit of Rs. 40,151/- was directed to be allowed. Thus, the appeal was partly allowed.

9. Aggrieved by the order of CIT(A), the assessee is in appeal before us raising following grounds of appeal:

1. *The Ld. Commissioner of Income Tax (Appeals) – NFAC erred in confirming the re-assessment proceedings and additions made by the Ld.AO of Rs.62,78,000 despite getting convinced that the notices were not served to the appellant and the assessment order suffers from legal infirmity. That non-service of notices u/s. 148A(b), 148 and order u/s. 148A(d) of the Income Tax Act, 1961, renders the entire re-assessment proceedings as illegal and the consequent assessment order ought to be quashed.*
2. *The Ld. Commissioner of Income Tax (Appeals) – NFAC erred in confirming the action of the Assessing Officer in re-opening the assessment u/s. 147 of the Income Tax Act, 1961 without adjudicating on various legal grounds and non-compliances by the Ld.AO. That the re-assessment is illegal, void and bad in law.*
3. *The Ld. Commissioner of Income Tax (Appeals) – NFAC erred in not appreciating the fact that the notice u/s. 148 of the Income Tax Act, 1961 was issued by the Jurisdictional Assessing Officer, which is*

not in accordance with the scheme laid down u/s. 151A of the Act. That the reassessment proceeding is illegal, void and bad in law.

4. *Without Prejudice to the above grounds, the Ld. Commissioner of Income Tax (Appeals) – NFAC erred in confirming the addition of Rs. 62,78,000/- u/s. 69A of the Income-tax Act, 1961, on account of alleged cash deposits without appreciating the factual matrix of the case and the submissions made by the appellant. That the addition made is unjustified and ought to be deleted.*
5. *The appellant craves leave to add, amend, alter, or delete any of the above grounds of appeal.*

10. During the course of hearing before us, the learned Authorised Representative (AR), reiterated the facts and submitted that for the Assessment Year 2015-16 her income was below the taxable limit prescribed under the Act and therefore she had not filed return of income for the year under consideration. It was further submitted that the assessee was not conversant with electronic compliance procedures and was not registered on the Income-tax portal during the relevant period. According to the learned AR, the assessee became aware of the reassessment proceedings only in January 2024 upon receiving a telephonic communication from the Assessing Officer, and thereafter her daughter assisted her in getting registered on the portal and responding to the proceedings. The learned AR assailed the reassessment proceedings primarily on the ground that the mandatory notices issued under sections 148A(b) and 148 of the Act were never served upon the assessee.

11. The learned AR further submitted that the Ld. CIT(A), after examining the record, has categorically recorded a finding (in para 5.5 of his order) that the notices issued under sections

148A(b) and 148 were not validly served upon the assessee and that the assessment order suffered from legal infirmity on account of non-compliance with mandatory requirements of service. It was pointed out that the Ld. CIT(A), while adjudicating Ground No. 2, has observed that the notices were merely uploaded on the portal when the assessee was not registered and that the Standard Operating Procedure prescribed by the CBDT for alternate modes of communication was not followed. On that basis, the legal ground regarding invalid service was allowed.

12. However, the learned AR submitted that despite having held that the reassessment order suffers from legal infirmity, the Ld. CIT(A) proceeded to examine the additions on merits and partly confirmed the addition under section 69A to the extent of Rs. 62,78,000/-. According to the learned AR, once the foundational jurisdictional defect in service of notice was accepted and the reassessment proceedings were held to be legally infirm, the Ld. CIT(A) ought not to have sustained any part of the additions on merits. It was contended that after holding the reassessment to be vitiated in law, there remained no valid assessment order in existence which could be partly confirmed.

13. The learned AR therefore submitted that the approach adopted by the Ld. CIT(A) is internally inconsistent and contrary to settled principles of law. It was urged that if the jurisdictional defect goes to the root of the matter, the entire reassessment must fall and the additions sustained on merits cannot survive independently. On this premise, the learned AR prayed that the

reassessment proceedings be quashed in entirety and the addition of Rs. 62,78,000/- sustained by the Ld. CIT(A) be deleted.

14. Per contra, the learned Departmental Representative supported the orders of the Assessing Officer as well as that of the Ld. CIT(A).

15. We have carefully considered the rival submissions, perused the material available on record, examined the assessment order as well as the order of the Ld. CIT(A), and deliberated upon the statutory provisions and judicial precedents relied upon before the first appellate authority.

16. The core issue which arises for adjudication is whether the reassessment proceedings initiated under section 147 pursuant to notice issued under section 148 are sustainable in law, particularly in light of the finding recorded by the Ld. CIT(A) regarding non-service of notice.

17. The learned AR had strongly relied upon the statutory mandate contained in sections 148A(b) and 148 of the Act and the provisions of section 282 read with Rule 127 of the Income-tax Rules, 1962. It was contended that service of notice is a jurisdictional requirement and that in the absence of valid service, the reassessment proceedings are vitiated. Before the Ld. CIT(A), reliance was placed upon judicial precedents including the decision of the Hon'ble Bombay High Court in ***Chitra Supekar vs ITO (2023) 149 taxmann.com 26*** **and the decision of the**

Hon'ble Punjab & Haryana High Court in *CIT vs Avtar Singh (2008) 304 ITR 333*, wherein it has been held that service of notice under section 148 is a condition precedent for assumption of jurisdiction and that absence of proof of valid service renders the reassessment void.

18. The Ld. CIT(A), after examining the material on record, recorded specific findings on the issue of service of notice. Para 5.5 of the appellate order reads as under:

> *5.5Vide Ground NO.2, the appellant submitted that no valid service of notices u/s 148(b), 148 and Order u/s 148(d) was effected and assessment was framed without affording adequate opportunity. It is observed that the notices issued under section 148A(b) and section 148 were merely uploaded on the income-tax portal, but the appellant was not registered at the relevant time. CBDT SOP dated 19.11.2020 also mandated use of alternate modes such as email and SMS which were not followed. Judicial precedents such as Chitra Supekar Vs ITO (BO HC 2023) and CIT Vs Avtar Singh (304 ITR 333) emphasize the mandatory nature of valid service. Hence, the assessment order suffers from legal infirmity. This ground is allowed."*

19. The above finding of the Ld. CIT(A) is categorical and unequivocal. The appellate authority has clearly held that there was no valid service of notice and that the assessment order suffers from legal infirmity. Once such a finding is recorded, the legal consequence necessarily follows. Service of notice under section 148 is not a mere procedural requirement; it is a foundational jurisdictional condition. The Hon'ble High Courts in the decisions relied upon before the Ld. CIT(A) have consistently held that where notice under section 148 is not validly served, the

entire reassessment proceedings are null and void. The defect strikes at the root of jurisdiction and is not curable.

20. In the present case, the Revenue has not placed any material before us to demonstrate that notice was served through any of the statutorily recognised modes. Uploading of notice on the portal, when the assessee was admittedly not registered and had no access to the portal, cannot by itself be equated with valid service, particularly when no alternate mode was attempted and when even the Assessing Officer recorded that notice was issued but not served.

21. We also note that the Ld. CIT(A), despite having recorded a finding that the assessment order suffers from legal infirmity on account of non-service of notice, proceeded to adjudicate the additions on merits and partly sustained the addition under section 69A. In our considered view, once the jurisdictional defect is established and the reassessment is held to be legally infirm, the consequential assessment order cannot survive in part. A jurisdictionally defective proceeding cannot be partly validated on merits.

22. The law is well settled that if the assumption of jurisdiction is invalid, the entire superstructure built upon it collapses. There cannot be a valid assessment in the absence of a valid notice conferring jurisdiction.

23. Accordingly, in view of the categorical finding recorded by the Ld. CIT(A) in para 5.5 of the order, and applying the

principles laid down in the judicial precedents relied upon, we hold that the reassessment proceedings initiated under section 147 pursuant to notice under section 148 are void ab initio for want of valid service of notice.

24. In view of the above conclusion on the foundational jurisdictional issue, the other legal grounds raised by the assessee, including those relating to issuance of notice by the Jurisdictional Assessing Officer under section 151A and alleged infirmity in sanction under section 151, are rendered academic and are not adjudicated.

25. Consequently, the assessment order dated 05.03.2024 passed under section 147 read with section 144 read with section 144B is hereby quashed. The additions sustained by the Ld. CIT(A), including the addition of Rs. 62,78,000/- under section 69A, do not survive.

26. In view of our decision on the legal issue, the grounds raised on merits also become academic and are not adjudicated separately.

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

Order pronounced in the open court on 18.02.2026.

Sd/-	**Sd/-**
(SAKTIJIT DEY)	**(MAKARAND VASANT MAHADEOKAR)**
VICE PRESIDENT	**ACCOUNTANT MEMBER**

Mumbai, Dated 18/02/2026
Dhananjay, Sr.PS

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

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

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

1.

उप/सहायक पंजीकार (Asst. Registrar)
आयकर अपीलीय अधिकरण, मुम्बई / ITAT, Mumbai