

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad ' B ' Bench, Hyderabad

श्री मंजुनाथा ,जी. लेखा सदस्य एवं श्री रविश सूद, न्यायिक सदस्य के समक्ष |
Before Shri Manjunatha, G. Accountant Member
A N D
Shri Ravish Sood, Judicial Member

आ.अपी.सं / **ITA No./605/Hyd/2025**
(निर्धारण वर्ष/Assessment Year: 2016-17)

Smt. Nistala Sudha KEONJHAR, Odhisha PAN:EMCPS9399C	Vs.	ITO WARD 9(1) Hyderabad
(Appellant)		(Respondent)
निर्धारिती द्वारा/Assessee by:	Shri D. Parida, CA	
राजस्व द्वारा/Revenue by:	Dr. Sachin Kumar, Sr. AR	
सुनवाई की तारीख/Date of hearing:	25/02/2026	
घोषणा की तारीख/Pronouncement:	26/02/2026	

आदेश/ORDER

Per Manjunatha, G. A.M.

This appeal filed by the assessee, feeling aggrieved by the order passed by the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 06/02/2025 for the A.Y.2016-17.

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

1. That the order passed by the learned Commissioner of Income Tax (Appeals)[CIT(A)], NFAC, Delhi is arbitrary, excessive, contra and bad in law.
2. That on the fact and circumstances of the case and in law, the Assessing officer has grossly erred in making addition amounting to Rs.17,17,597/- on account of deposits/credit in bank account as unexplained money u/s 69A of the Income Tax Act,1961 to which the learned Commissioner of Income Tax (Appeals) has wrongly confirmed the same, without considering the facts/details/documents provided during the proceeding that the deposits/credit are out of maturity proceeds of postal deposits for the years. Therefore, the addition is illegal, invalid, in violation of natural justice and liable to be deleted.
3. That the appellant may add, alter, delete, withdraw or modify

3. The assessee has also filed a petition for admission of additional ground dated, 25/02/2026 and has raised a legal ground in light of provisions of sec 149(1)(b) of the Income Tax Act, 1961 r.w.s. 148A(d) of the I.T. Act, 1961. The relevant additional ground raised by the assessee read as under:

“Without prejudicing to the other grounds and on the fact and circumstances of the case, that the initiation of proceeding by issuance of show cause notice u/s 148A(b) of the Act, passing of order u/s 148A(d) of the Act, issuance of notice u/s 148 of the Act, 1961 and consequential proceedings are invalid as the alleged escaped income doesn't exceeds Rs.50 lakhs in terms of sec 149(1)(b) of the Act in so far as the proceeding has been initiated based on wrong facts and reason recorded and the same is clearly evident from the assessment order that there is an addition of Rs.17,17,597/- which is below the prescribed limit, Hence the order passed

u/s 148A(d), notice issued u/s 148 and order passed u/s 147 of the Act is illegal and liable to be quashed”.

4. We have heard both parties and considered relevant petition dated, 25/02/2026 and upon careful consideration of the relevant ground, we find that the ground taken by the assessee challenging the validity of notice issued by the AO u/s 148 of the Act, is purely a legal issue and goes to the route of the matter, and therefore, the same needs to be admitted for adjudication. Thus, we admit the additional ground filed by the assessee for adjudication.

5. The brief facts of the case are that the assessee is an individual and had not filed her return of income for the A.Y 2016-17. As per specific information flagged by the Risk Management Strategy formulated by the CBDT through ITBA Portal software under the head “NMS Case”, the assessee has made cash deposits to the tune of Rs.12,32,000/- in bank a/c held with the State Bank of Hyderabad, Gaddinnaram Branch, Hyderabad, time deposit of Rs.60,00,000/- with SBH Gaddinnaram and interest income of Rs.1,27,392/- from the SBH Gaddinnaram during the year under consideration. Therefore, notice u/s 148A(b) of the Act, dated 22/03/2023 was issued and served on the assessee. The assessee has not filed any explanation for the notice; therefore, the Ld. AO passed an order u/s 148A(d) of the Act on 23/02/2023 and issued a notice u/s 148 of the Act, dated 25/03/2023. In

response, the assessee has filed her return of income dated, 03/09/2023, declaring total income of Rs.2,12,690/-.

6. The case of the assessee was selected for scrutiny. During the course of assessment proceedings, the AO called upon the assessee to explain the source for the said cash deposits and the term deposits. In response, the assessee submitted that she has made cash deposit of Rs.7,89,000/- in her bank a/c and also made time deposit of Rs.21,73,950/-. The source for the deposits is out of withdrawal from post office deposit a/c for Rs.2,48,500/- on 19/01/2015 and Rs.2,48,500 on 23/10/2015 being maturity proceeds of post office deposits. However, no explanation has been furnished in respect of other credits of Rs.14,25,595/-. The AO after considering the relevant explanation of the assessee observed that the assessee has made total deposits of Rs.22,25,873/- which include cash deposits of Rs.7,89,000/- and other credit of Rs.14,25,597/-. The assessee has furnished the source to the extent of Rs.4,97,000/- out of cash withdrawals from post office savings bank a/c. The remaining cash deposits and other credits to the tune of Rs.17,17,597/- has not been explained. Therefore, made addition of Rs.17,17,597/- u/s 69A of the Act, as unexplained money.

7. Aggrieved by the assessment order, the assessee preferred an appeal before the Ld. CIT(A). Before the Ld. CIT(A), the assessee challenged the addition made by the AO towards

cash deposits and other credits by furnishing relevant details. The Ld. CIT(A) after considering the relevant submissions of the assessee rejected the explanation of the assessee and upheld the additions made by the AO towards cash deposits and other credits to the tune of Rs.17,17,597/- by holding that the explanation of the assessee with regard to the source for cash deposits out of maturity of the postal TDR was not in the name of the assessee.

8. Aggrieved by the order of the Ld. CIT(A), the assessee is now in appeal before the Tribunal.

9. The Ld. Counsel for the assessee, referring to the additional ground of appeal filed by the assessee submitted that the notice issued u/s 148 of the Act dated 25/03/2023 is beyond 3 years from the end of the relevant A.Y going by the amount of escaped income which is evident from the additions made by the AO for Rs.17,17,597/-. The Ld. Counsel for the assessee further submitted that although the AO has considered certain information, which shows the time deposits of Rs.60,00,000/- made by the assessee in SBH, Gaddinnaram Branch, but finally concluded that the assessee is having only time deposits of Rs.21,73,950/-. Further, as per the bank statement of SBH Gaddinnaram, the total credits in the Bank account were at Rs.22,25,873/- which includes cash deposits and other credits being maturity proceeds of postal deposits receipts. The AO without appreciating the evidence simply on the basis of a non-

existing information reopened the assessment beyond 3 years from the end of the relevant A.Y, even though escaped income does not exceed Rs.50 lakhs in terms of section 149(1)(b) of the Act. Therefore, he submitted that the reopening of the assessment is bad in law and liable to be quashed.

10. The Ld. Sr. AR for the Revenue, Dr. Sachin Kumar, on the other hand, submitted that the Ld. AO had considered the information flagged by NMS software, as per which, the assessee has made cash deposits of Rs.12,32,000/- in SBH Gaddinnaram Branch and time deposits of Rs. 60 lakhs with SBH and also earned interest income of Rs.1,27,392/- from SBH. The information considered by the Ld. AO for the purpose of issue of notice u/s 148A(d) of the Act, in excess of Rs.50 lakhs. Further, the assessee has not furnished any details explaining the show cause notice issued by the Ld. AO and therefore, the Ld. AO on the basis of the information available with the Department has reopened the assessment by passing the order u/s 148A(d) of the Act and issued show cause notice u/s 148 beyond 3 years from the end of the relevant A.Y, because the income escaped the assessment exceeds Rs.50 lakhs as per Sec. 149(1)(b) of the Act. Therefore, he submitted that there is no merit in the argument of the assessee and the same should be rejected.

11. We have heard both the parties, perused the material available on record and had gone through the orders of the

authorities below. As per the provisions of section 149(1)(a) of the Act, no notice u/s 148 shall be issued for the relevant A.Y, if 3 years have elapsed from the end of the relevant A.Y, unless the case falls under clause (b). Further, clause (b) of section 149(1)(b) of the Act, if three years have elapsed from the end of the relevant assessment year, unless the Ld. AO in his possession books of account or other documents or evidence which reveal that the income chargeable to tax has escaped the assessment amount or likely to Rs.50 lakhs or more. In the present case, the AO has considered the provisions of section 149(1)(b) of the Act for issuance of notice u/s 148 of the Act on the basis of information flagged by Risk Management Strategy formulated by the CBDT through ITBA Portal software under the head "NMS Case", and observed that as per specific information, the assessee has made cash deposits to the tune of Rs.12,32,000/- in account held with the State Bank of Hyderabad, time deposits of Rs.60 lakhs with SBH and interest income of Rs.1,27,392/- from SBH Gaddinnaram during the year under consideration. However, while completing the assessment u/s 147 r.w.s. 144B of the Act dated 20/02/2024, the AO has finally the assessed income escaped the assessment to the tune of Rs.17,17,597/- only u/s 69A of the Act. The AO assessed the income escaped the assessment of Rs.17,17,597/- on the basis of bank a/c statement of SBH Savings Bank A/c No.62416771244 for the period from 1/4/2015 to 31/03/2016 and as per the said bank account, total credits available in the said bank a/c including cash deposits were

at Rs.22,25,873/-. Further, the Ld. AO after considering the relevant submissions of the assessee with regard to the source for cash deposits of Rs.4,97,000, has finally assessed the balance amount of Rs.17,17,597/- as unexplained money u/s 69A of the Act. From the order passed by the Ld. AO u/s 148A(d) of the Act, dated 22/03/2023 for issuance of notice u/s 148 of the Act, and the assessment order passed u/s 147 r.w.s. 144B of the Act dated 20/02/2024, it is undisputedly clear that the AO has considered certain non-existing information for issue of notice u/s 148 of the Act which is clearly evident from the findings given by the AO in the assessment order. Therefore, we are of the considered view that the information considered by the AO for the purpose of reopening of the assessment in light of provisions of section 149(1)(b) of the Act is not an information which suggests escapement of income which exceeds Rs. 50 lakhs or more so as to reopen the assessment beyond 3 years from the end of the relevant A.Ys. Although the Ld. Sr. AR for the Revenue argued that at the time of opening of the assessment, the Ld. AO is only required to consider prima facie, information which suggests escapement of income for issue of notice u/s 148 of the Act, but in our considered view, there is no merit in the argument of the Ld. Sr. AR for the Revenue, because the prima facie information considered by the AO cannot be stretched to a non-existing information or incorrect information. Since the AO has considered the information flagged by the ITBA Portal which pertains to Bank A/c held by the assessee with the State Bank of Hyderabad, in our

considered view, before ascertaining the income escaped the assessment, the AO should have verified the relevant bank a/c statement which is the basis for reopening of the assessment beyond 3 years from the end of relevant A.Y. Since the AO has considered non-existing information to arrive at a conclusion that the income escaped the assessment exceeding Rs.50 lakhs or more, in our considered view, notice issued by the AO u/s 148 of the Act dated 25/03/2023 for the A.Y under consideration is beyond 3 years from the end of the relevant A.Y., even though the case of the assessee falls under section 149(1)(a) of the Act and income escaped the assessment is less than Rs.50 lakhs for the relevant A.Y. Therefore, we are of the considered view that the notice issued by the AO u/s 148 of the I.T. Act, 1961 dated 25/03/2023 is invalid and consequently, the assessment order passed by the Ld. AO u/s 147 r.w.s. 144B of the Act dated 22/02/2024 is void ab initio and liable to be quashed. Thus, we quash the assessment order passed by the Ld. AO u/s 147 r.w.s. 144B of the Act dated 22/02/2024.

12. In the result, appeal filed by the assessee is allowed.

Order pronounced in the Open Court on 26th February, 2026.

Sd/- (RAVISH SOOD) JUDICIAL MEMBER	Sd/- (MANJUNATHA, G) ACCOUNTANT MEMBER
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Hyderabad, dated 26th February, 2026.

VBP/sps

Copy to:

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2	ITO WARD 9(1) Hyderabad
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4	DR, ITAT Hyderabad Benches
5	Guard File

By Order