

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम

**IN THE INCOME TAX APPELLATE TRIBUNAL
VISA KHAPATNAM "DIVISION" BENCH, VISA KHAPATNAM**

**श्री रवीश सूद, न्यायिक सदस्य एवं श्री ओंकारेश्वर चिदारा लेखा सदस्य के समक्ष,
BEFORE SHRI RAVISH SOOD, HON'BLE JUDICIAL MEMBER**

&

SHRI OMKARESHWAR CHIDARA, HON'BLE ACCOUNTANT MEMBER

**आयकर अपीलसं./I.T.A.No.562 & 563/VIZ/2025
(निर्धारण वर्ष/ Assessment Year:2015-16)**

Kota Radha D.No. 32-35-55 Jamindhar Street Vijayawada – 520004 Andhra Pradesh [PAN: AXIPK8032H]	Vs.	Income Tax Officer – Ward – 3(1) Income Tax Office CR Building, 1 st Floor annex M.G. Road, Vijayawada – 520002 Andhra Pradesh
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करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Smt A. Aruna, Advocate
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Sri K. Prasad, Sr.DR
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	10.02.2026
घोषणा की तारीख/Date of Pronouncement	:	18.02.2026

आदेश / O R D E R

PER BENCH:

The captioned appeals filed by the assessee are directed against the respective orders passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal

Centre, Delhi, dated 07.07.2025, which in turn arises from the respective orders passed by the Assessing Officer (for short, “A.O”) under section 147 r.w.s 144 of Income-Tax Act, 1961 (for short, “the Act”), dated 28.03.2024 and under section 271(1)(c) of the Act dated 22.07.2024 for the A.Y. 2015-16. As the present appeals are inextricably interwoven and in fact interlinked, therefore, the same are being taken up together and disposed of vide a consolidated order.

2. We shall first take up the appeal filed by the assessee against the order passed by the CIT(A) dated 07.07.2025, which in turn arises from the order passed by the A.O under section 147 r.w.s 144 of the Act dated 28.03.2024. The assessee has assailed the impugned order on the following grounds of appeal before us:

“1. The order of learned Commissioner of Income Tax (Appeals) is contrary to the facts and also the law applicable to the facts of the case.

2. The learned Commissioner of Income Tax (Appeals) is not justified in dismissing the appeal in-limine without condoning the delay of 164 days in filing the appeal.

3. Any other ground that may be urged at the time of appeal hearing.”

3. Succinctly stated, the AO, based on the information that the assessee during the subject year had carried out substantial financial transactions viz., (i). Cash deposits with Andhra bank above Rs. 2 lakhs: Rs. 58,65,000; (ii). Cash deposits above with Andhra Bank above Rs. 10 lakhs: Rs. 35,47,850/-; and (iii). Interest income received from Andhra Bank: Rs. 1,936/-, but had not filed her return of income for

the subject year, initiated proceedings under section 147 of the Act. Notice under section 148 of the Act dated 03.04.2022 was issued and served upon the assessee.

4. Thereafter, the AO, pursuant to the notice issued under section 133(6) of the Act dated 02.12.2023 issued to Union Bank of India Branch, Machavaram, received a copy of the statement of the bank account of the assessee. The AO, on a perusal of the bank statement, observed that the assessee had, during the subject year, made cash deposits aggregating to Rs. 94,12,850/-. As the assessee had failed to come forth with any explanation regarding the source of the aforesaid cash deposits of Rs. 94,12,850/-, the A.O held the entire amount as having been sourced from the assessee's unexplained money under section 69A of the Act. Apart from that, the AO made an addition of the interest income that was received by the assessee during the subject year of Rs. 1,936/-. Accordingly, the A.O vide his order passed under section 147 r.w.s 144 of the Act, dated 28.03.2024, determined the income of the assessee at Rs. 94,14,786/-. Also, the AO, while culminating the assessment, initiated penalty proceedings under section 271(1)(c) of the Act for concealing the income particulars.

5. Aggrieved, the assessee carried the matter in appeal before the CIT(A). As the appeal filed by the assessee before the CIT(A) involved a delay of 164 days,

therefore, he declined to exercise the discretion vested with him under sub-section (3) of section 249 of the Act and dismissed the appeal as barred by limitation.

6. The assessee, aggrieved with the order of the CIT(A) has carried the matter in appeal before us.

7. We have heard the Learned Authorized Representatives of both the parties, perused the orders of the authorities below and the material available on record, as well as considered the judicial pronouncements that have been pressed into service by the Ld. AR to buttress her contentions.

8. Smt. A. Aruna, Learned Authorized Representative (for short, “Ld.AR”) for the assessee, at the threshold of hearing of the appeal, submitted that, as the notice under section 148 of the Act dated 03.04.2022, bearing DIN No. ITBA/AST/S/148-1/2022-23/1042457805(1) issued by the Income Tax Officer, Ward -2(1), Vijayawada i.e., Jurisdictional Assessing Officer (for short “JAO”); Page No. 11 of APB, on a writ petition filed by the assessee before the Hon’ble High Court of Andhra Pradesh had been quashed, therefore, the consequential assessment order passed by the A.O, vide his order passed under section 147 r.w.s 144 of the Act dated 28.03.2024 cannot be sustained and is liable to be quashed for absence of jurisdiction. The Ld. AR further submitted that as the notice under section 148 of the Act, dated 03.04.2022, had been quashed by the Hon’ble High

Court, therefore, the CIT(A) order upholding the assessment order also cannot be sustained and is liable to be quashed. The Ld. AR to buttress her contention had placed on record the order of the Hon'ble High Court of Andhra Pradesh passed in the case of Radha Kota W/o. Lakshmi Narasimha Rao vs. (i) ITO, Ward -2(1), Vijayawada; (ii) ITO, Ward – 3(1), Vijayawada; Writ Petition No. 256/2026 dated 06.01.2026. The Ld. AR submitted that the Hon'ble High Court of Andhra Pradesh, relying on its earlier order passed in the case of Smt. Parameela Pasumarthi vs. DCIT, Circle – II, Vijayawada and Another, W.P. NO. 14681 of 2023 and batch matters, wherein the impugned notices and the orders that were passed by the JAO's outside the faceless mechanism as provided under the provisions of section 144(b) r.w.s. 151A and the "E-Assessment Scheme of Income Escaping Assessment Scheme, 2022" notified by the Government of India on 29.03.2022 under section 151A were held as bad and illegal, had on the same terms allowed the writ petition filed by the present assessee in Writ Petition No. 256/2026 dated 06.01.2026.

9. Elaborating further on her contention, the Ld.AR submitted that now when the notice issued by the A.O under section 148 of the Act dated 03.04.2022 in itself had been quashed by the Hon'ble High Court of Andhra Pradesh vide order passed in Writ Petition No. 256/2026 dated 06.01.2026, therefore, the consequential assessment order passed by the A.O under section 147 r.w.s 144

dated 28.03.2024 and also the CIT(A) order upholding the assessment cannot be sustained and is liable to be vacated.

10. Per contra, Sri K. Prasad, learned Senior Department Representative (for short “Ld. DR”), relied upon the orders of the authorities below. The Ld. DR submitted that the CBDT had issued a letter directing the Departmental Representatives to seek adjournment in a matter, inter alia, involving the issue of notice for re-assessment by JAO, considering the clarification proposed under the Finance Bill, 2026. The Ld. DR submitted that, taking cognizance of the aforesaid factual position, the hearing of the present appeal be adjourned.

11. We have given thoughtful consideration to the contentions advanced by the Learned authorized Representatives of both parties regarding the issue in hand.

12. We are of a firm conviction that as the **Hon’ble High Court of Andhra Pradesh** on a writ petition filed by the assessee in **Radha Kota W/o. Lakshmi Narasimha Rao vs. (i) ITO, Ward -2(1), Vijayawada; (ii) ITO, Ward – 3(1), Vijayawada; Writ Petition No. 256/2026 dated 06.01.2026**, had followed its earlier orders passed in the case of Smt. Parameela Pasumarthi v. DCIT, Circle – II, Vijayawada and another in W.P. NO. 14681 of 2023 and other batch matters, wherein the impugned notices and orders issued by the JAO’s outside the faceless mechanism as provided under the provisions of section 144(b) r.w.s. 151A and

the “E-Assessment Scheme of Income Escaping Assessment Scheme, 2022” notified by the Government of India on 29.03.2022 under section 151A were held as bad and illegal, had on the same terms allowed the aforesaid Writ petition of the assessee and quashed the notice issued under section 148 of the Act dated 03.04.2022, therefore, the assessment order passed by the A.O vide his order under section 147 r.w.s 144 of the Act, dated 28.03.2024 based on the said notice which as on date is non-est and non-existence cannot be sustained and is liable to be quashed.

13. Although it is the Ld. DR’s contention that as per the directions of the CBDT the Departmental Representatives have been directed to seek adjournment in matters involving issue of notice for re-assessment by JAO, based on the clarification proposed in Finance Bill, 2026, but we are unable to persuade ourselves to accept the same. We say so, for the reason that as the notice issued by the A.O under section 148 of the Act dated 03.04.2022 had been quashed by the Hon’ble High Court on a writ petition filed by the assessee, i.e, Writ Petition No. 256/2026 dated 06.01.2026 and thus, ceases to exist, therefore, there can be no justification to sustain the order of assessment passed by the A.O under section 147 r.w.s 144 of the Act dated 28.03.2024, which finds its genesis in the aforesaid notice under Section 148 of the Act, dated 03.04.2022 that having been quashed by the High Court ceases to exist on date.

14. Before parting, we may herein observe, that although the assessment order passed by the A.O under section 147 r.w.s 144 of the Act dated 28.03.2024, in the backdrop of the aforesaid facts available on record as on date cannot be sustained and is liable to be quashed in the absence of notice under section 148 of the Act, but, in case if the Department gets a revival of the aforesaid notice by approaching the Hon'ble High Court or the Hon'ble Supreme Court, then, it shall remain at liberty to seek necessary amendment of the present order.

15. We, thus, in terms of our aforesaid deliberations, quash the assessment order passed by the A.O under section 147 r.w.s 144 of the Act, dated 28.03.2024.

16. Resultantly, the appeal filed by the assessee is allowed in terms of our aforesaid observations.

ITA No. 563/VIZ/2025 (A.Y. 2015-16)

17. As the assessment order passed by the A.O under section under section 147 r.w.s 144 of the Act dated 28.03.2024 has been quashed by us in terms of our aforesaid observations while disposing of the assessee's appeal in ITA 562/Viz/2025, therefore, the impugned penalty imposed by the A.O vide his order under section 271(1)(c) of the Act, dated 22.07.2024 cannot survive on a standalone basis and has to meet the same fate. We, thus, on the same terms and

granting the same liberty, set aside the order passed by the CIT(A) and quash the penalty imposed by the A.O under section 271(1)(c) of the Act.

18. Resultantly, the appeal filed by the assessee is allowed in terms of our aforesaid observations.

19. In the result, both the appeals filed by the assessee are allowed.

Order pronounced in the open court on 18th February, 2026.

Sd/-
(**ओंकारेश्वर चिदारा**)
(**OMKARESHWAR CHIDARA**)
लेखा सदस्य /ACCOUNTANT MEMBER

Dated:18.02.2026

*Giridhar, Sr.PS

Sd/-
(**रवीश सूद**)
(**RAVISH SOOD**)
न्यायिक सदस्य/JUDICIAL MEMBER

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee : **Kota Radha**
D.No. 32-35-55, Jamindhar Street
Vijayawada – 520004, Andhra Pradesh
2. राजस्व/ The Revenue : **Income Tax Officer – Ward – 3(1)**
Income Tax Office, CR Building, 1st Floor
annex, M.G. Road, Vijayawada – 520002
Andhra Pradesh
3. The Principal Commissioner of Income Tax
4. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, विशाखापटणम /DR,ITAT, Visakhapatnam
5. The Commissioner of Income Tax
6. गार्डफ़ाईल / Guard file

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam