

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

BEFORE SHRI VIJAY PAL RAO, VICE PRESIDENT
AND
SHRI MANJUNATHA G. ACCOUNTANT MEMBER

आ.अपी.सं / **ITA No.846/Hyd./2025**
Assessment Year 2017-2018

Mahender Merugu, BHUPALAPALLY. PIN – 506 169. PAN BIUPM3308Q	vs.	The Income Tax Officer, Ward-1, MANCHERIAL. PIN – 504 208. Telangana
(Appellant)		(Respondent)

For Assessee :	Sri Mohd. Afzal, Advocate
For Revenue :	Sri Srinath Sadanala, Sr. AR

Date of Hearing :	24.03.2026
Date of Pronouncement :	17.04.2026

आदेश / ORDER

PER VIJAY PAL RAO, VICE PRESIDENT :

This appeal by the Assessee is directed against the Order dated 26.03.2025 of the learned CIT(A)-National Faceless Appeal Centre [in short “NFAC], Delhi, for the assessment year 2017-2018.

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

1. *“The order of the learned Commissioner of Income Tax 1 (Appeals) is against the law, weight of evidence and probabilities of case..*
2. *The learned Commissioner ought to have appreciated that notice u/s 148 was issued on 01.04.2021, therefore, the notice u/s 148 should have been issued as per the amended provisions brought into the statute w.e. f 01.04.2021. Therefore, for not following the amended provisions the notice u/s 148 is to be held as null and void and consequently the assessment proceedings made u/s 147 r.w.s 144B of the IT Act are also to be held as null and void.*
3. *The learned Commissioner erred in confirming the addition of Rs.1,36,76,435/- made u/s 69A of the IT Act.*
4. *The learned Commissioner ought to have appreciated that the notice u/s 148 is issued for verification of the source of Bank deposits and there was no material to presume that there is no escapement of income, therefore, the order u/s 147 r.w.s 144B wherein, an addition of Rs.1,36,76,435/- made u/s 69A is to be held as null and void.*
5. *The learned Commissioner ought to have appreciated that during the course of assessment proceedings the assessee produced confirmation letters from the main dealers of Yamaha Motors Cycles/Yes Motors and PVNR Motors located at Karimnagar, stating that they have received cost of motorcycles sold to various persons, purchased through assessee, therefore, the learned Commissioner erred in confirming the addition of Rs.1,36,76,435/-*
6. *The appellant craves leave to add to, amend or modify the above grounds of appeal either before or at the time of hearing of the appeal, if it is considered necessary.”*

2.1. The assessee has also raised the following additional grounds:

1. *“Without prejudice to the grounds of appeal filed along with Form No.36 the learned Commissioner ought to have appreciated that the notice u/s 148, dt: 31.03.2021, issued on 01.04.2021, is neither signed physically nor digitally, therefore, the notice is an invalid notice, consequently, the learned Commissioner ought to have held that the consequential proceedings u/s 147 r.w.s 144B as bad in law.*
2. *Even assuming that the notice issued on 01.04.2021, is considered as show cause notice u/s 148A(b), the same is bad in law, as the notice u/s 148 is issued with the approval of the Addl.CIT/JCIT, as against the appropriate Authority Principal Chief Commissioner Telangana Hyderabad as provided in section 151 of the IT Act, as the notice issued beyond a period of three years.”*
3. The learned Authorised Representative of the Assessee of the assessee has submitted that the assessee has raised the legal issue in the additional grounds questioning the validity of the notice issued by the Assessing Officer u/sec.148 of the Income Tax Act [in short "the Act"], 1961 as the notice u/sec.148 of the Act was issued by the Assessing Officer on 01.04.2021. The learned Authorised Representative of the Assessee has submitted that the provisions of amended sec.148A of the Act by Finance Act,

2021 are applicable in the case of the assessee. However, the Assessing Officer has issued the notice u/sec.148 of the Act without following the said procedure as per the amended provisions and therefore, the notice issued by the Assessing Officer as well as the consequential Order passed u/sec.147 r.w.s.144B are not valid and liable to be quashed. He has further submitted that even the notice issued by the Assessing Officer u/sec.148 of the Act is unsigned and therefore, the same is invalid. He has thus submitted that the legal issue raised by the assessee can be admitted on the basis of the facts and material available on record and no new fact or material is required to be verified or investigated for adjudication of this legal issue raised by the assessee. In support of his contention, the learned Authorised Representative of the Assessee has relied upon the Judgment of Hon'ble Supreme Court in the case of **National Thermal Power Co. Ltd. vs. CIT [1998] 229 ITR 383 (SC)**.

4. On the other hand, the learned DR has submitted that the physical copy of the notice issued u/sec.148 dated 31.03.2021 bears the signature of the Assessing Officer and

therefore, the notice cannot be challenged on this ground of no signature of the Income Tax Officer. As per the directions of the Bench the learned DR has also filed a report of the Assessing Officer dated 10.03.2026 and submitted that as per the dispatch register the notice was generated and dispatched on 31.03.2021 and therefore, it is before the amended provisions came into effect and hence, the said notice is valid as per the unamended provisions of the Act. He has further submitted that the assessee has not challenged the validity of the notice issued u/sec.148 either before the Assessing Officer or before the learned CIT(A). Therefore, the assessee cannot be allowed to raise this issue first time at this stage.

5. We have considered the rival submissions as well as relevant material on record. There is no dispute that the issue raised by the assessee in the additional grounds of appeal is purely legal in nature and the same can be adjudicated on the basis of the facts and material already available on record before the Assessing Officer. Though the assessee did not raise this issue before the Assessing Officer

in response to show cause notice issued u/sec.148A(b) of the Act as well as before the learned CIT(A), however, there is no bar for raising the legal issue before the Tribunal if for adjudication of the issue does not require any verification and investigation of any fact or record as held by the Hon'ble Supreme Court in the case of **National Thermal Power Co. Ltd. vs. CIT** (supra). Accordingly, we admit the additional grounds raised by the assessee for adjudication. Since the additional grounds is purely legal in nature and goes to the root of the matter, we first take up the issue raised by the assessee in the additional grounds of appeal.

6. On merits of the additional grounds, the learned Authorised Representative of the Assessee has submitted that since the notice was issued on 01.04.2021 and it was also sent via email on 08.04.2021, therefore, the amended provisions for reopening w.e.f. 01.04.2021 are applicable for issuing notice u/sec.148 of the Act. However, the Assessing Officer has not followed the procedure as laid down u/sec.148A of the Act and therefore, the notice issued by the Assessing Officer u/sec.148 without following the procedure

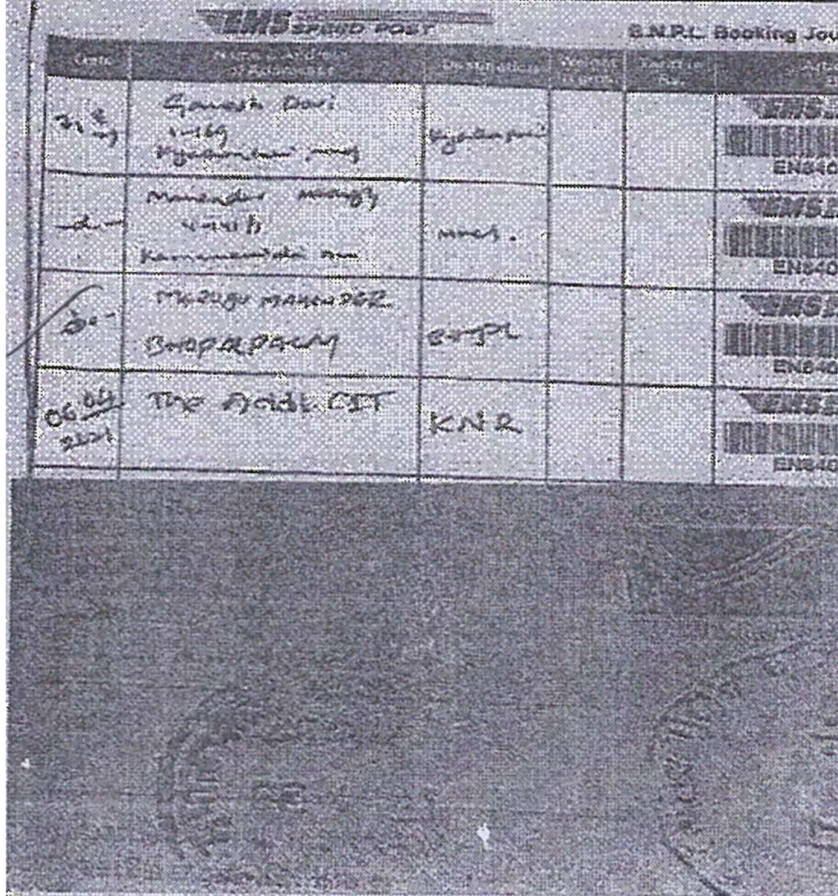
as well as the approval of the Competent Authority provided u/sec.151 of the Act is invalid and liable to be quashed. In support of his contention, he has relied upon the following decisions:

1. Hon'ble Bombay High Court Judgment in the case of Prakash Krishnavtar Bhardwaj Vs ITO [2023] 451 ITR 27 (Bom.);
2. Order of the Hon'ble ITAT 'C' Bench, Bangalore in the case of Yeshoda Electricals Vs ACIT, Banagalore in ITA No.1175-1179 &1108/Bang/2016, Dated 03.02.2021.

6.1. The learned Authorised Representative of the Assessee has also referred to the information obtained by the assessee under Right to Information Act [in short "RTI"] dated 10.12.2025 wherein the Assessing Officer has given the details of sending the notice through email on 08.04.2021 and also given the copy of the speed post envelope which was sent on 01.04.2021 and received back unserved on 06.04.2021.

7. On the other hand, the learned DR has submitted that the physical copy is duly sent by the Income Tax Officer and further the notice was dispatched on 31.03.2021 as per the dispatch register. Therefore, even if the post office sent the notice vide speed post dated 01.04.2021, the notice would be treated as issued on 31.03.2021 when the Assessing Officer dispatched the same. He has filed copy of the register of the Assessing Officer dated 10.03.2026.

8. We have considered the rival submissions, carefully perused the notice issued by the Assessing Officer as well as report of the Assessing Officer regarding the dispatch of the said notice. The notice u/sec.148 of the Act bears the date as 31.03.2021. However, the CPC portal showing the notice date as 01.04.2021. Thus, it appears that the notice bearing date 31.03.2021 was uploaded only on 01.04.2021. Further, the Assessing Officer in the information provided under RTI to the assessee mentioned that the notice was sent to the email of the assessee on 08.04.2021. The Assessing Officer has also filed report dated 10.03.2026 regarding the dispatch of the notice which reads as under:

Sl.No.	Appellant's arguments	Remarks of the AO
1	Xxx	Xxx
2	Xxx	Xxx
3.	Verify from dispatch record, the details on which date and time of the postal authorities have collected	<p>From the dispatch register, it is seen that the said notice was generated and dispatched on 31.03.2021. However, as is custom, the postal covers containing the notices u/s 148 (along with other cases) were sent to the post office at Mancherial on 01.04.2021 and the said notice was received by postal authorities at 14:48 hours of 01.04.2021.</p>  <p>It can be seen from the copy of the dispatch register and the speed post acknowledgement that the serial number of the cover sent to the assessee is one and the same i.e., EN840412134IN.</p>

8.1. Thus, it is clear that the notice bearing date 31.03.2021 issued u/sec.148 along with the other cases were sent to the post office on 01.04.2021 at 14.48 hrs. Therefore, it is manifest from record that the notice issued u/sec.148

was presented for speed post in the post office only on 01.04.2021 at 14.48 hrs and not on 31.03.2021. In other words, the notice was within the office of the Income Tax Officer/Department up-to 31.03.2021 and it was sent out of the control of the O/o. Assessing Officer only on 01.04.2021 at 2.48 PM and therefore, the said notice will be considered as issued only on 01.04.2021. Once the notice is issued on 01.04.2021 then, the Assessing Officer ought to have followed the procedure provided u/sec.148A of the Act as well as u/sec.151 of the Act for obtaining approval from the Competent Authority. Undisputedly, the Assessing Officer has not issued any show cause notice u/sec.148A(b) of the Act or even by treating the said notice issued u/sec.148 as 148A(b) in pursuance to the Judgment of Hon'ble Supreme Court in the case of **Union of India vs. Ashish Agarwal [2022] 444 ITR 1 (SC)**; therefore, the notice issued by the Assessing Officer u/sec.148 and Order passed u/sec.147 r.w.s.144B without following the procedure mandated, is invalid as held in Para no.7 in the said decision as under:

“7. Thus, the new provisions substituted by the Finance Act, 2021 being remedial and benevolent in nature and substituted with a specific aim and object to protect the rights and interest of the assessee as well as and the same being in public interest, the respective High Courts have rightly held that the benefit of new provisions shall be made available even in respect of the proceedings relating to past assessment years, provided section 148 notice has been issued on or after 1st April, 2021. We are in complete agreement with the view taken by the various High Courts in holding so.”

8.2. In the case in hand, the Assessing Officer has issued the notice with the approval of the Addl. CIT/JCIT whereas the Competent Authority to grant the approval u/sec.151 of the Act in respect of the notice issued on or after 01.04.2021 is Pr. Chief Commissioner of Income Tax. Hence, the notice issued by the Assessing Officer u/sec.148 of the Act without following the amended provisions of sec.148A of the Act as well as without taking valid approval u/sec.151 of the Act is invalid and liable to be quashed. We Order accordingly.

8.3. Since we have quashed the notice issued by the Assessing Officer u/sec.148 of the Act as invalid which vitiates the consequential re-assessment order passed by the

Assessing Officer. Therefore, the other grounds raised by the assessee becomes infructuous.

9. In the result, appeal of the Assessee is allowed.

Order pronounced in the open Court on 17.04.2026.

Sd/-
[MANJUNATHA G.]
ACCOUNTANT MEMBER

Sd/-
[VIJAY PAL RAO]
VICE PRESIDENT

Hyderabad, Dated 17th April, 2026.

VBP

Copy to :

1.	Mahender Merugu, T2-157, Krishna Colony, BHUPALAPALLY – 506 169. Warangal.
2.	The Income Tax Officer, Ward-1, 1 st Floor, Ranga Raja Complex, Lane, Beside TTD Kalyana Mandapam, Reddy Colony, MANCHERIAL – 504 208.
3.	The Pr. CIT, Hyderabad.
4.	The DR, ITAT, “A” Bench, Hyderabad.
5.	Guard file.

BY ORDER