

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad ‘ DB-B ‘ Bench, Hyderabad

Before Shri Vijay Pal Rao, Vice-President
A N D
Shri Madhusudan Sawdia, Accountant Member

आ.अपी.सं / **ITA No.584/Hyd/2025**
(निर्धारण वर्ष / Assessment Year: 2014-15)

Shri Vamanrao Ramalingam Arcot L/R by Smt. Sangeetha Vamanrao, Hyderabad PAN:ACLP4148G	Vs.	Income Tax Officer Ward 13 (1) Hyderabad
(Appellant)		(Respondent)
निर्धारित द्वारा/Assessee by:	C.A A.V. Saisudha	
राजस्व द्वारा/Revenue by::	Dr. Sachin Kumar, DR	
सुनवाई की तारीख/Date of hearing:	25/06/2025	
घोषणा की तारीख/Pronouncement:	30/06/2025	

आदेश/ORDER

Per Vijay Pal Rao, Vice President

This appeal filed by the assessee is directed against the order dated 29/01/2025 of the learned CIT (A)-NFAC Delhi, relating to A.Y.2014-15.

2. There is a delay of 2 days in filing the present appeal before the Tribunal. The assessee has filed a condonation petition along with an affidavit by the Legal Heir of the diseased assessee explaining the cause of delay.

3. We have heard the learned AR and the learned DR on the condonation of delay. The assessee was suffering for various ailments for a long time and expired on 14/03/2025 after a prolonged illness with multiple heart attacks. Thereafter, the daughter of the diseased assessee came to know about the impugned order passed by the learned CIT (A) and filed the present appeal. Accordingly, we are satisfied that the assessee was having a sufficient cause for delay of 2 days in filing the present appeal. Accordingly, the delay of 2 days in filing the present appeal is condoned.

4. The assessee has filed the following grounds of appeal:

Ground 1	:	The CIT(A) grossly erred in upholding the order passed by the AO which was not in accordance with the provisions of law
Ground 2	:	The CIT(A) erred in upholding the reassessment order passed by the AO who without acquiring valid jurisdiction completed reassessment proceedings and passed the impugned order
Ground 3	:	The CIT(A) erred in upholding the addition of Rs. 62,58,920 made by the AO in the reassessment order passed
Ground 4	:	The CIT(A) erred in upholding the assessment of total income of Rs. 68,19,020 determined by the AO in the reassessment order passed
Ground 5	:	The CIT(A) erred in upholding the levy of interest of Rs. 2,27,579 by the AO u/s 234A of the Act
Ground 6	:	The CIT(A) erred in upholding the demand of Rs. 23,34,656 determined by the AO in the reassessment order passed
Ground 7	:	The CIT(A) erred in initiating penalty proceedings initiated by the AO u/s 271(1)(c) of the Act.
Ground 8	:	Any other grounds that may be urged at the time of hearing.


5. Ground Nos. 1 and 2 are regarding the validity of the re-assessment order passed by the Assessing Officer u/s 147 r.w.s. 144/144B of the I.T. Act, 1961.

6. The learned AR of the assessee has submitted that the Assessing Officer reopened the assessment by issuing notice u/s 148 bearing the date as 31/03/2021, however, the same is digitally signed only on 5/4/2021. A copy of the same is placed at page No.5 of the paper book. The learned AR has further pointed out that the said notice u/s 148 was sent through email only on 5/4/2021, therefore, the order u/s 148 was issued only on 5/4/2021 and consequently, the amended provisions of section 148 and 148A of the I.T. Act, 1961 w.e.f. 11/04/2021 are applicable in the case of the assessee. The Assessing Officer has not followed the procedure prescribed u/s 148 and 148A as well as the judgment of the Hon'ble Supreme Court in the case of Union of India vs. Aashish Agarwal reported in 138 Taxmann.com 64. The learned AR has submitted that the Assessing Officer has not issued the notice u/s 148 after considering the objections of the reply of the assessee as per the amended provisions of the Act. Thus, the notice issued by the Assessing Officer u/s 148 on 5/4/2021 is invalid and liable to be quashed. The learned AR has further submitted that the Assessing Officer has also not taken approval u/s 151 of the Act from the competent authority prescribed after the amendment w.e.f. 1/4/2021 and therefore, the reopening of the assessment is otherwise not valid as the approval was taken only from the Pr. CIT instead of CCIT. Thus, the learned AR has submitted that the reopening of the

assessment is not valid and notice issued u/s 148 of the Act by the Assessing Officer without following the procedure laid down u/s 148A of the Act is liable to be quashed.

7. On the other hand, the learned DR has relied upon the orders of the authorities below.

8. We have considered the rival contentions as well as the relevant material available on record. The Assessing Officer has issued notice u/s 148 of the Act dated 31/03/2021 placed at page No.5 of the paper book as under:

 <p style="text-align: center;">GOVERNMENT OF INDIA MINISTRY OF FINANCE INCOME TAX DEPARTMENT OFFICE OF THE INCOME TAX OFFICER WARD 13(1),HYDERABAD</p>			
To, VAMANRAO RAMALINGAM ARCOT 3-41-49 , WEST MARREDPALLY SECUNDERABAD 500026 , Telangana India			
PAN: ACLP4148G	AY: 2014-15	Dated: 31/03/2021	DIN & Notice No : ITBA/AST/S/148/2020-21/1032020445(1)
Notice Under Section 148 Of The Income Tax Act, 1961			
<p>Sir/ Madam/ M/s,</p> <p>Whereas I have reasons to believe that your Income chargeable to Tax for the Assessment Year 2014-15 has escaped Assessment within the meaning of section 147 of the Income Tax Act, 1961.</p> <p>I, therefore, propose to assess/ re-assess the income/ loss for the said Assessment Year and I hereby require you to deliver to me within 30 days from the service of this notice, a return in the prescribed form for the said Assessment Year.</p> <p>This notice is being issued after obtaining the necessary satisfaction of the PCIT, Hyderabad-4</p> <p style="text-align: right;">RADHA BAI GATTIPALLI WARD 13(1),HYDERABAD</p> <p style="text-align: right;">(In case the document is digitally signed please refer Digital Signature at the bottom of the page)</p>			
<p><small>Note: If digitally signed, the date of digital signature may be taken as date of document.</small></p> <p><small>AAYKAR BHAWAN, OPPOSITE LB STADIUM, BASHEER BAGH, HYDERABAD, HYDERABAD, Telangana, 500004</small></p> <p><small>Email: HYDERABAD.ITC13.1@INCOMETAX.GOV.IN</small></p> <p><small>- DIN-Documents Identification No.</small></p> <p style="text-align: right;">This document is digitally signed Signer: RADHA BAI GATTIPALLI Date: Monday, April 12, 2021 4:38 PM Location: HYDERABAD, India</p>			

8.1 This notice is digitally signed and bears the date as Month 5th April, 2021. The said notice was also sent by the Assessing Officer through email on 5/4/2021 which is apparent from the copy of mail details filed by the assessee at pages 6 & 7 of the paper book. In the footnote of the notice issued u/s 148, it is specifically mentioned that “if digitally signed, the date of digital signature may be taken as date of document”. Therefore, the notice issued u/s 148 though bears the date 31/3/2021, however, the date of the document is taken as date of the digital signature i.e. 5/4/2021. This fact is also corroborated by the email sent by the Assessing Officer on 5/4/2021. Thus, there is no ambiguity about the fact that the notice u/s 148 was issued by the Assessing Officer on 5/4/2021 though the date mentioned in the caption of the notice is 31/03/2021. Once the notice is issued on 5/4/2021, then as per the judgment of the Hon'ble Supreme Court in the case of Union of India vs. Aashish Agarwal, the said notice will be treated as the notice u/s 148A(b) of the Act and after considering the objections of the assessee, the Assessing Officer was required to issue the notice u/s 148 by taking a prior approval of the specified authority as per the amended provisions of the Act vide Finance Act, 2021. In the case in hand, the Assessing Officer has neither followed the procedure as prescribed u/s 148 and 148A of the Act nor taken the approval of the specified authority as per the amended provisions of section 151 of the Act. It is a clear case of issuance of notice u/s 148 after the expiry of 5 years from the end of the A.Y and therefore, the specified authority in the case is Pr. Chief Commissioner or Pr. Director General or Chief Commissioner or Director General as the

case may be. The Hon'ble Supreme Court in the case of Union of India vs. Rajiv Bhansal reported in 469 ITR 46 held in para 68, 69, 75 and 76 of the order as under:

“68. After 1 April 2021, the Income-tax Act has to be read along with the substituted provisions. The substituted provisions apply retrospectively for past assessment years as well. On 1 April 2021, TOLA was still in existence, and the Revenue could not have ignored the application of TOLA and its notifications. Therefore, for issuing a reassessment notice under section 148 after 1 April 2021, the Revenue would still have to look at: (i) the time limit specified under section 149 of the new regime; and (ii) the time limit for issuance of notice as extended by TOLA and its notifications. The Revenue cannot extend the operation of the old law under TOLA, but it can certainly benefit from the extended time limit for completion of actions falling for completion between 20 March 2020 and 31 March 2021.

69. For instance, Section 149(1)(a) of the new regime specified the time limit of three years from the end of the relevant assessment year for reopening of the assessment. For assessment year 2017-2018, the three year period expired on 31 March 2021. The expiry of time fell within the time period contemplated by Section 3 of TOLA read with its notifications. Resultantly, the Revenue had time until 30 June 2021 to issue a reassessment notice for assessment year 2017-2018 under section 149(1)(a). This harmonious reading gives effect to the legislative intention of both the Income-tax Act and TOLA. Moreover, Sections 147 to 151 are machinery provisions. Therefore, they must be given an interpretation that is consistent with the object and purpose of the Income-tax Act.

75. After 1 April 2021, the new regime has specified different authorities for granting sanctions under section 151. The new regime is beneficial to the assessee because it specifies a higher level of authority for the grant of sanctions in comparison to the old regime. Therefore, in terms of Ashish Agarwal (supra), after 1 April 2021, the prior approval must be obtained from the appropriate authorities specified under section 151 of the new regime. The effect of Section 151 of the new regime is thus:

(i) If income escaping assessment is less than Rupees fifty lakhs: (a) a reassessment notice could be issued within three years after obtaining the prior approval of the Principal Commissioner, or Principal Director or Commissioner or Director; and (b) no notice could be issued after the expiry of three years; and

(ii) If income escaping assessment is more than Rupees fifty lakhs: (a) a reassessment notice could be issued within three

years after obtaining the prior approval of the Principal Commissioner, or Principal Director or Commissioner or Director; and (b) after three years after obtaining the prior approval of the Principal Chief Commissioner or Principal Director General or Chief Commissioner or Director General.

76. *Grant of sanction by the appropriate authority is a precondition for the assessing officer to assume jurisdiction under section 148 to issue a reassessment notice. Section 151 of the new regime does not prescribe a time limit within which a specified authority has to grant sanction. Rather, it links up the time limits with the jurisdiction of the authority to grant sanction. Section 151(ii) of the new regime prescribes a higher level of authority if more than three years have elapsed from the end of the relevant assessment year. Thus, non-compliance by the assessing officer with the strict time limits prescribed under section 151 affects their jurisdiction to issue a notice under section 148.”*

9. Thus, the approval was required to be taken from the specified authority as per the new provisions of section 151 of the Act. Since the Assessing Officer has not taken the approval from the specified authority as per the new provisions of section 151 of the Act, therefore, the notice issued by the Assessing Officer u/s 148 of the Act after the expiry of more than 3 years from the end of the A.Y renders the notice u/s 148 as invalid. Accordingly, in the facts and circumstances of the case, the notice issued by the Assessing Officer u/s 148 on 5/4/2021 without following the amended provisions of section 148 & 148A of the Act as well as without taking prior approval of the specified authority as per the amended provision of section 151 of the Act applicable after 1/4/2021 is invalid and liable to be quashed. We order accordingly.

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

Order pronounced in the Open Court on 30th June, 2025.

Sd/-

Sd/-

(MADHUSUDAN SAWDIA) ACCOUNTANT MEMBER	(VIJAY PAL RAO) VICE-PRESIDENT
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Hyderabad, dated 30th June, 2025

Vinodan/sps

Copy to:

S.No	Addresses
1	Shri Vamanrao Ramalingam Arcot (L/R) Smt. Sangeetha Vamanrao, 3/41/49 Aswini Nagar, West Maradepally, Secunderabad 500026
2	Income Tax Officer Ward 13(1) 1 st Floor, Aayakar Bhavan, Basheerbagh, Hyderabad 500004
3	Pr. CIT - Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order