आयकर अपीलीय अधिकरण, हैदराबाद पीठ

IN THE INCOME TAX APPELLATE TRIBUNAL

Hyderabad ' A ' Bench, Hyderabad

श्री विजय पाल राव, उपाध्यक्ष एवं

श्री मधुसूदन सावडिया, लेखा सदस्य के समक्ष ।

Before Shri Vijay Pal Rao, Vice-President

A N D

Shri Madhusudan Sawdia, Accountant Member

आ.अपी.सं /**ITA No. 2340/Hyd/2025**

(निर्धारण वर्ष/Assessment Year: 2016-17)

Shri Radhakishan Potharajula, Karimnagar PAN: CDVPP1566Q	Vs.	Income Tax Officer (International Taxation)-2, Hyderabad
(Appellant)		(Respondent)
निर्धारिती द्वारा/Assessee by:	Adv. R. Mohan Kumar	
राजस्व द्वारा/Revenue by:	Shri Mohan Babu, Sr. AR	
सुनवाई की तारीख/Date of hearing:	29/09/2026	
घोषणा की तारीख/Pronouncement:	16/10/2026	

ORDER

Per Madhusudhan Sawdia, A.M.:

This appeal is filed by Shri Radhakishan Potharajula ("the assessee"), feeling aggrieved by the order passed by the Learned Commissioner of Income Tax (Appeals)-10, Hyderabad ("Ld. CIT(A)") dated 08.10.2025 for the A.Y. 2016-17.

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

> *"1. In the facts and circumstances of the case, the respected CIT(A) ought to have considered that the assessment order is not sustainable on facts or in law.*
>
> *2. In the facts and circumstances of the case, the respected CIT(A) ought to have considered the fact that the notice issued u/s 148 was issued beyond the time limit specified u/s 149, and held that the notice as well as the consequent proceedings are bad in law.*
>
> *3. In the facts and circumstances of the case, the respected CIT(A) ought to have considered that the assessee owned agricultural land and that the cash deposits were made out of agricultural income.*
>
> *4. In the facts and circumstances of the case, the respected CIT(A) ought to have seen that the assessee had sufficient source to explain the cash deposits.*
>
> *5. The assessee may be permitted to add, delete, amend or modify any ground of appeal at the time of hearing with the leave of the Honourable ITAT."*

3. The assessee has also raised the following revised additional grounds before us:

> *"1. In the facts and circumstances of the case, the assessment proceedings conducted by the Income Tax Officer (International Taxation)-2, Hyderabad are bad in law, since she issued the mandatory notice under section 143(2) without there being an order under section 127 transferring the case from the Income Tax Officer Ward-1 Adilabad to the Income Tax Officer (International Taxation)-2 Hyderabad.*
>
> *2. In the facts and circumstances of the case, the order passed under section 148A(d) dated 27.03.2023 by the Income Tax Officer Ward-1, Adilabad and the notice under section 148 dated 27.03.2023 issued by the Income Tax Officer Ward-1 Adilabad were without jurisdiction as there was no order*

under section 127 transferring the case from the Income Tax Officer Ward-2 Karimnagar to the Income Tax Officer Ward-1 Adilalabad.".

4. The Learned Authorized Representative ("Ld. AR") submitted that additional grounds so filed are admissible in view of judgment rendered by the Hon'ble Supreme Court in the case of National Thermal Power Co. Ltd. Vs. CIT (1998) 229 ITR 383 (SC). The Learned Departmental Representative ("Ld. DR") also did not raise any objection for admission of the additional grounds. The prayer for admission of additional grounds noted above which are not in memorandum of appeal are being admitted for adjudication in terms of Rule 11 of the Income Tax (Appellate Tribunal) Rules, 1963 owing to the fact that objections raised in additional grounds are legal in nature for which relevant facts are stated to be emanating from the existing records.

5. The brief facts of the case are that the assessee is a non-resident Indian who had not filed any return of income under section 139 of the Income-tax Act, 1961 ("the Act") for the Assessment Year 2016-17. On the basis of the information available, the Assessing Officer ("AO") initiated reassessment proceedings and issued a notice under section 148 of the Act dated 27.03.2023. In response thereto, the assessee filed her return of income declaring a total income of Rs. 5,26,235/-. After considering the submissions of the assessee, the AO passed a draft assessment order under section 144C(1) of the Act dated 18.03.2024, proposing an addition of Rs.

21,80,500/- under section 69A of the Act on account of unexplained cash deposits in the bank account of the assessee. The assessee did not file any objections before the Ld. DRP against the draft assessment order. Accordingly, the AO passed the final assessment order under section 147 read with section 144C(3) of the Act dated 06.05.2024, making the addition of Rs. 21,80,500/- under section 69A of the Act and assessing the total income at Rs. 27,06,740/-.

6. Aggrieved by the assessment order, the assessee preferred an appeal before the Ld. CIT(A), who sustained the addition made by the AO and dismissed the appeal.

7. Aggrieved by the order of the Ld. CIT(A), the assessee is in appeal before this Tribunal. At the outset, the Learned Authorized Representative ("Ld. AR") submitted that, under Ground No. 2, the assessee has challenged the validity of the notice issued under section 148 of the Act on the ground that it was barred by limitation. Inviting our attention to the order passed under section 148A(d) of the Act dated 27.03.2023 placed at page nos. 66 to 68 of the paper book, the Ld. AR submitted that the AO had computed the alleged income escaping assessment at Rs. 57,57,235/-. He further submitted that while arriving at this amount, the AO had separately included sums of Rs. 26,30,500/- and Rs. 17,00,500/- as cash deposits in the assessee's account maintained with ICICI Bank Limited. The Ld. AR submitted that the assessee maintained only one bank account with ICICI

Bank Limited and that the total cash deposits in that account during the relevant previous year were Rs. 26,30,500/-. The amount of Rs. 17,00,500/- separately included by the AO was already subsumed in the total cash deposits of Rs. 26,30,500/- and, therefore, represented a duplicate entry. In support of this submission, the Ld. AR invited our attention to para no. 4 of the assessment order, wherein the AO had categorically recorded that the total cash deposits in the assessee's ICICI Bank account during the year under consideration amounted to Rs. 26,30,500/-. The Ld. AR further submitted that, upon excluding the duplicate amount of Rs. 17,00,500/- from the alleged escaped income of Rs. 57,57,235/-, the amount would stand reduced to Rs. 40,56,735/-, which is below the statutory threshold of Rs. 50 lakhs. Consequently, the conditions prescribed under section 149(1)(b) of the Act for issuing a notice beyond three years from the end of the relevant assessment year were not satisfied. Referring to section 149(1)(a) of the Act, the Ld. AR also submitted that the relevant Assessment Year 2016-17 ended on 31.03.2017 and that the period of three years from the end of that assessment year expired on 31.03.2020. The Ld. AR also invited our attention to the copy of the notice under section 148 of the Act dated 27.03.2023, placed at page no. 65 of the paper book, and submitted that the notice was issued after the expiry of the applicable limitation period. Accordingly, it was contended that the notice was invalid and that the consequential assessment order was without jurisdiction and liable to be quashed.

8. Per contra, the Learned Departmental Representative ("Ld. DR") relied on the orders of the lower authorities. It was submitted that, at the time of issuing the notice under section 148 of the Act, the AO had information indicating escapement of income amounting to Rs. 57,57,235/-. The Ld. DR contended that the AO had ten years from the end of the relevant assessment year to issue the notice under section 148 of the Act. However, considering the provisions of first proviso to section 149(1) of the Act, the limitation period would, therefore, expire on 31.03.2023. Since the notice was issued on 27.03.2023, the Ld. DR submitted that it was within limitation and prayed for rejection of the legal ground raised by the assessee.

9. We have heard the rival submissions and perused the material available on record. The issue requiring adjudication is whether the notice issued under section 148 of the Act dated 27.03.2023 for the Assessment Year 2016-17 was within the limitation prescribed under section 149 of the Act. For deciding this issue, it is necessary to examine whether the amount of income alleged to have escaped assessment satisfied the statutory threshold permitting issuance of a notice beyond three years from the end of the relevant assessment year. In this regard, we have verified the copy of the order passed under section 148A(d) of the Act relied upon by the Ld. AR, placed at page nos. 66 to 68 of the paper book. On perusal thereof, we find that the AO computed the alleged

escaped income at Rs. 57,57,235/- by separately including amounts of Rs. 26,30,500/- and Rs. 17,00,500/- towards cash deposits in the assessee's account maintained with ICICI Bank Limited. Thus, the computation referred to by the Ld. AR is borne out by the said document.

10. We have also verified para no. 4 of the assessment order relied upon by the Ld. AR. On perusal thereof, we find that the AO has categorically recorded the total cash deposits in the assessee's ICICI Bank account during the relevant previous year at Rs. 26,30,500/-. On examination of the aforesaid documents, we find that the amount of Rs. 17,00,500/- separately included in the computation of alleged escaped income forms part of the total cash deposits of Rs. 26,30,500/-. Its separate inclusion, therefore, resulted in counting the same deposits twice. Accordingly, the submission of the Ld. AR regarding duplication is supported by the documents referred to above. Upon excluding the duplicate amount of Rs. 17,00,500/- from Rs. 57,57,235/-, the alleged escaped income works out to Rs. 40,56,735/-. Even if the remaining amounts included in the AO's computation are taken into account in their entirety for the limited purpose of examining jurisdiction, the aggregate remains below Rs. 50 lakhs. The statutory threshold cannot be satisfied by including the same cash deposits more than once.

11. We have also gone through the provisions of section 149(1)(a) of the Act, as applicable on the date of issuance of the

impugned notice. As per the said provision, a notice under section 148 of the Act could not be issued after three years from the end of the relevant assessment year unless the case fell within section 149(1)(b) of the Act. The latter provision permitted issuance of a notice beyond three years, subject, inter alia, to the requirement that the AO possessed the prescribed material revealing income chargeable to tax which had escaped assessment amounting to, or likely to amount to, Rs. 50 lakhs or more. In the present case, after removing the duplicate entry, the amount relied upon by the AO is Rs. 40,56,735/-. Therefore, the monetary condition necessary for invoking the extended period is not fulfilled.

12. Therefore, we are unable to accept the contention of the Ld. DR that the notice is valid merely because the AO initially recorded the alleged escaped income at Rs. 57,57,235/-. The correctness of the amount relied upon for invoking the extended period must be examined with reference to the underlying material. Where that amount includes a demonstrably duplicate entry, such duplication cannot confer jurisdiction upon the AO. The present conclusion rests on the duplication apparent from the documents relied upon for determining the alleged escaped income, and not merely on the amount ultimately added in the assessment. The contention of the Ld. DR regarding availability of a ten-year period also does not overcome the requirement of satisfying section 149(1)(b) of the Act, as applicable when the notice was issued. Mere

issuance of the notice before 31.03.2023 would not render it valid when the statutory condition for proceeding beyond three years was not fulfilled.

13. We have further verified the copy of the notice issued under section 148 of the Act, placed at page no. 65 of the paper book. On perusal thereof, we find that the notice is dated 27.03.2023, as submitted by the Ld. AR. The relevant Assessment Year 2016-17 ended on 31.03.2017, and the ordinary period of three years from the end of that assessment year expired on 31.03.2020. Since the conditions for invoking the extended period under section 149(1)(b) of the Act were not satisfied, the notice dated 27.03.2023 was barred by limitation. A valid notice under section 148 of the Act, issued within the limitation prescribed by the Act, is a prerequisite for assumption of jurisdiction to make a reassessment. Since the impugned notice was barred by limitation, the AO did not validly assume jurisdiction to complete the reassessment. Accordingly, we hold that the notice issued under section 148 of the Act dated 27.03.2023 is barred by limitation. Consequently, the assessment order dated 06.05.2024 passed under section 147 read with section 144C(3) of the Act is without jurisdiction and is hereby quashed.

14. Since the assessment order has been quashed on the aforesaid legal ground, the remaining grounds challenging the addition on merits have become academic and do not require adjudication.

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

Order pronounced in the Open Court on 16th October, 2026.

Sd/-	Sd/-
(VIJAY PAL RAO) **VICE PREESIDENT**	**(MADHUSUDAN SAWDIA)** **ACCOUNTANT MEMBER**

Hyderabad, dated 16th October, 2026.

Vinodan/sps

Copy to:

S.No	Addresses
1	Shri RADHAKISHAN POTHARAJULA, 3-9, Kukkalagudur Village, Ramagundam Mandal, Karim Nagar, Telangana, INDIA - 505514
2	Income Tax Officer(International Taxation)-2 Aayakar Bhavan, Basheerbagh, Hyderabad 500004
3	Pr. CIT, Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order