आयकर अपीलीय अधिकरण, विशाखापत्तनम पीठ, विशाखापत्तनम
INCOME TAX APPELLATE TRIBUNAL,
VISAKHAPATNAM BENCH, VISAKHAPATNAM

BENCH: DIVN

श्री विजय पाल राव, माननीय उपाध्यक्ष एवं श्री मंजूनाथ जी, माननीय लेखा सदस्य
SHRI VIJAY PAL RAO, HON'BLE VICE PRESIDENT
AND
SHRI MANJUNATHA G, HON'BLE ACCOUNTANT MEMBER

<table>
<tr><td colspan="3">ITA 101/Viz/2026 & 102/Viz/2026
निर्धारण वर्ष/Assessment Year:2019-20)</td></tr>
<tr><td>KRISHNA MOHAN POTLURI
D NO 4-1, POTLURI PARKRIYA HOUSE, SAI GOKUL VALLEY, NARRAPALLI,, RANGA REDDY-501508, TELANGANA</td><td rowspan="2">Vs.</td><td>THE ACIT,
CENTRAL CIRCLE
VIJAYAWADA</td></tr>
<tr><td>अपीलार्थी/Appellant</td><td>प्रत्यर्थी /Respondent</td></tr>
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Permanent Account Number of Assessee:	**AFTPP8437N**
अपीलार्थी द्वारा/Appellant represented by:	**CA MV Prasad**
प्रत्यर्थी द्वारा/Respondent represented by:	**Sri Nilanjan Dey, CIT(DR)**

सुनवाई की तारीख/Date of conclusion of hearing:	**10.08.2026**
घोषणा की तारीख/Date of pronouncement:	**13.08.2026**

आदेश / ORDER

PER SHRI VIJAY PAL RAO, VICE PRESIDENT :

These two appeals filed by the assessee are directed against two separate orders of Commissioner of Income Tax (Appeals)-3 ["Ld.CIT(A)"], both dated 21.11.2025, arising out of assessment order passed by the Ld.AO u/s 144 r.w.s.147 of the Income Tax Act, 1961 ("the Act") dated 19.02.2024 and penalty order passed u/s 271(1)(c) respectively for the Assessment Year 2019-20.

2. In the quantum appeal, the assessee has raised the following grounds of appeal :

> *1. The order passed by the Learned CIT (Appeals) is against the law as well as on the facts of the case.*
>
> *2. On the facts and circumstances of the case, the Learned CIT(A) is not justified in upholding the assessment made by the Assessing Officer u/s.147 r.w.s 144 of the Act by bringing entire amount of alleged cash seized of Rs.28,00,000/- as unexplained money u/s.69A of the Act.*
>
> *3. On the facts and circumstances of the case, the Ld.CIT(A) erred in not considering the fact that the notice issued u/s.148 of the I.T.Act issued by the Jurisdictional Assessing Officer is without proper jurisdiction and hence invalid by stating that the jurisdiction of the AO flows from the centralilisation under u/s.127 and the assessment has been reopened by following due procedural compliance.*
>
> *4. On the facts and circumstances of the case, the Ld.CIT(A) would have appreciated that the notice issued u/s.148 of the Act should have been issued in faceless manner and however the same was issued by the Jurisdictional Assessing Officer.*
>
> *5. On the facts and circumstances of case, the Ld.CIT(A) also not justified in upholding the assessment finalised consequent upon such invalid notice issued u/s.148 of the I.T.Act as legal and valid.*
>
> *6. On the facts and circumstances of case, the Ld.CIT(A) is not justified in rejecting the plea of the appellant that Assessment Year 2019-20 is search year since the search operation u/s.132A was conducted on 29-11-2018 by issuance of a warrant and therefore, the provisions of Section 147 of the I.T.Act are not applicable on mere reason that the appellant has not challenged the jurisdiction within 30 days from issue of notice u/s.142(1) under the provisions of Section 124(3) of the I.T.Act.*
>
> *7. On the facts and circumstances of the case, the Ld.CIT(A) ought to have noticed that the even though the cash has been seized from the appellant, he would have appreciated that such cash does not belong to the appellant but to his wife and therefore, the AO would have made*

> *further enquiries and finalised the assessment accordingly. 8. Any other legal as well factual ground/s that may be urged at the time of hearing of the appeal.*

3. In ground No.5 and 6, the assessee has challenged the validity of the reopening of the assessment/reassessment order passed in pursuant to the requisition u/s 132A dated 29.11.2018. The Ld.AR of the assessee has submitted that the assessee is an individual and not filed any return of income for the year under consideration. Cash of Rs.28,00,000/- was found from the assessee during the vehicle checking by the Police at Check Post at Kothagudem Road, Abdullapuram Mandal. Thereafter, a statement of the assessee u/s 131 of the Act was recorded on 27.11.2018 and warrant of authorization u/s 132A was executed for seizure of cash of Rs.28,00,000/- by the Department on 29.11.2018. Subsequently, the AO issued notice u/s 148A(b) on 02.03.2023 and thereafter notice u/s 148 was issued on 28.03.2023. The Ld.AR has submitted that since there was a warrant of authorization u/s 132A for seizure of the cash, proceedings u/s 153A ought to have been initiated by the AO pursuant to the requisition u/s 132A of the Act as it is mandatory for the AO to follow the procedure u/s 153A of the Act. He has thus submitted that after the limitation provided u/s 153B for passing assessment u/s 153A, the AO cannot resort to the provisions of section 148 to assess or reassess the income of the assessee. Thus, the initiation of the

proceedings u/s 148 in pursuant to the requisition u/s 132A dated 29.11.2018 is not valid and liable to be quashed. The provision of section 153B read with second proviso provides period of 18 months for completing the assessment u/s 153A of the Act, which expires before 01.04.2021. Therefore, the amended provisions of section 148 are not applicable in the case of the assessee.

4. On the other hand, the Ld.DR has submitted that as per section 124(3)(c), the assessee cannot challenge the jurisdiction of the AO after one month from the issuance of notice u/s 143(2) of the Act. He has further submitted that as per the amended provisions of section 148A and section 148 read with Explanation 2 to section 148, the only recourse for the AO pursuant to search and seizure action for requisition u/s 132A of the Act is to reopen the assessment by issuing notice u/s 148 of the Act. He has relied upon the orders of the authorities below.

5. We have considered the rival submissions as well as the material on record. The assessee was intercepted by the Flying squad team during the election period and was found with cash of Rs.28 lakhs on 27.11.2018. Thereafter, the Department issued a warrant u/s 132A for requisition and seizure of the cash on 29.11.2018. As per the provisions of section 132A read with section 153A of the Act as existed

at that point of time, it is mandatory for the AO to initiate proceedings u/153A of the Act by issuing notice u/s 153A to assess or reassess the income of the assessee. For ready reference, the provisions of section 153A are reproduced as under :

Assessment in case of search or requisition.

153A. *(1) Notwithstanding anything contained in section 139, section 147, section 148, section 149, section 151 and section 153, in the case of a person where a search is initiated under section 132 or books of account, other documents or any assets are requisitioned under section 132A after the 31st day of May, 2003 but on or before the 31st day of March, 2021, the Assessing Officer shall—*

(a) issue notice to such person requiring him to furnish within such period, as may be specified in the notice, the return of income in respect of each assessment year falling within six assessment years and for the relevant assessment year or years referred to in clause (b), in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed and the provisions of this Act shall, so far as may be, apply accordingly as if such return were a return required to be furnished under section 139;

(b) assess or reassess the total income of six assessment years immediately preceding the assessment year relevant to the previous year in which such search is conducted or requisition is made and for the relevant assessment year or years :

Provided *that the Assessing Officer shall assess or reassess the total income in respect of each assessment year falling within such six assessment years and for the relevant assessment year or years :*

Provided further *that assessment or reassessment, if any, relating to any assessment year falling within the period of six assessment years and for the relevant assessment year or years referred to in this sub-section pending on the date of initiation of the search under section 132 or making of requisition under section 132A, as the case may be, shall abate :*

Provided also *that the Central Government may by rules made by it and published in the Official Gazette (except in cases where any assessment or reassessment has abated under the second proviso), specify the class or classes of cases in which the Assessing Officer shall not be required to issue notice for assessing or reassessing the total income for six assessment years immediately preceding the assessment year relevant to the previous year in which search is conducted or requisition is made and for the relevant assessment year or years:*

Provided also *that no notice for assessment or reassessment shall be issued by the Assessing Officer for the relevant assessment year or years unless—*

(a) the Assessing Officer has in his possession books of account or other documents or evidence which reveal that the income, represented in the form of asset, which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more in the relevant assessment year or in aggregate in the relevant assessment years;

(b) the income referred to in clause (a) or part thereof has escaped assessment for such year or years; and

(c) the search under section 132 is initiated or requisition under section 132A is made on or after the 1st day of April, 2017.

Explanation 1.—For the purposes of this sub-section, the expression "relevant assessment year" shall mean an assessment year preceding the assessment year relevant to the previous year in which search is conducted or requisition is made which falls beyond six assessment years but not later than ten assessment years from the end of the assessment year relevant to the previous year in which search is conducted or requisition is made.

Explanation 2.—For the purposes of the fourth proviso, "asset" shall include immovable property being land or building or both, shares and securities, loans and advances, deposits in bank account.

(2) If any proceeding initiated or any order of assessment or reassessment made under sub-section (1) has been annulled in appeal or any other legal proceeding, then, notwithstanding anything contained in sub-section (1) or section 153, the assessment or reassessment relating to any assessment year which has abated under the second proviso to sub-section (1), shall stand revived with effect from the date of receipt of the order of such annulment by the Principal Commissioner or Commissioner:

***Provided** that such revival shall cease to have effect, if such order of annulment is set aside.*

Explanation.—For the removal of doubts, it is hereby declared that,—

(i) save as otherwise provided in this section, section 153B and section 153C, all other provisions of this Act shall apply to the assessment made under this section;

(ii) in an assessment or reassessment made in respect of an assessment year under this section, the tax shall be chargeable at the rate or rates as applicable to such assessment year.

5.1. Therefore, at the time of requisition u/s 132A dated 29.11.2018, the only recourse with AO was to initiate proceedings u/s 153A of the Act and complete the assessment within the limitation as prescribed u/s 153B of the Act. As per the second proviso to section 153B, if the last authorization for search u/s 132 or for requisition u/s 132A was executed during the financial year commencing on 01.04.2018, the period of limitation for completing the assessment would be 18 months from the end of the financial year in which the requisition u/s 132A was executed. Therefore, the limitation of 18 months would reckon from 01.04.2019 and would end on 31.12.2020. Thus, in the absence of initiation of proceedings u/s 153A by the AO within the limitation period expired on 31.12.2020, the amended provisions of section 148 of the Act which came into effect from 01.04.2021 cannot be pressed into service. Since the assessment u/s 153A already attained finality by expiry of limitation u/s 153B of the Act, the said limitation cannot be extended by resorting to subsequent amendment u/s 148 of the Act. Even otherwise, Explanation to section 148 is applicable only in case when search and seizure u/s 132 or requisition u/s 132A is conducted on or after 01.04.2021. Accordingly, in the facts and circumstances of the case, when the AO has already lost his power by afflux of time to initiate and pass the assessment order u/s 153A of the Act, he cannot be allowed to resort to subsequent inserted provisions of section 148A and 148 of the Act. The contention of the Ld.DR that the assessee cannot raise objection against the jurisdiction of the AO u/s 124(3) is not relevant because the assessee is not challenging the jurisdiction of the AO to assess the income of the assessee, but the assessee has challenged the proceedings initiated by the AO u/s 148 of the Act pursuant to the requisition u/s 132A of the Act. Therefore, the order of the AO is challenged for not following the procedure for the assessment pursuant to the requisition u/s 132A of the Act as existed and applicable at the relevant point of time. Accordingly, we do not find any substance or merits in the objections of the Ld.DR.

5.2. In view of the facts and circumstances as discussed above, we hold that the proceedings initiated by the AO u/s 148A and order passed u/s 148A(d) and subsequent notice issued u/s 148 of the Act dated 02.03.2023 are invalid and liable to be quashed. We order accordingly.

6. Since the notice u/s 148 is quashed as invalid which vitiates the reassessment order passed by the AO, therefore, the other grounds raised by the assessee become infructuous and are not taken up for adjudication.

7. In the appeal arising from penalty u/s 271(1)(c) of the Act, the assessee has raised the following grounds of appeal :

> *1. The order passed by the Learned CIT (Appeals) is against the law as well as on the facts of the case.*
>
> *2. On the facts and circumstances of the case, the Learned CIT(A) is not justified in upholding the penalty levied by Assessing Officer u/s.271AAC of the Act of Rs. 28,00,000/- by treating the entire amount as unexplained money u/s.69A of the I.T.Act.*

3. On the facts and circumstances of case, the Ld.CIT(A) is not justified in upholding levy of penalty u/s.271AAC of the Act by rejecting the plea of the appellant that Assessment Year 2019-20 is search year since the search operation u/s.132A was conducted on 29-11-2018 by issuance of a warrant and therefore, the provisions of Section 147 of the I.T.Act are not applicable.

4. On the facts and circumstances of the case, the Ld.CIT(A) ought to have noticed that the appellant has explained the sources for the cash seized and therefore, would not have upheld the levy of penalty since the AO did not prove the contention of the appellant otherwise.

5. On the facts and circumstances of the case, the Ld.CIT(A) is not justified in rejecting the plea of the appellant on mere ground that there were two mutually inconsistent explanations made by the appellant without actually appreciating the fact which explanation is correct.

6. Any other legal as well factual ground/s that may be urged at the time of hearing of the appeal.

8. We have heard the Ld.AR as well as the Ld.DR and considered the material on record. Since we have already quashed reopening of the assessment by issuing notice u/s 148, which vitiates the reassessment order passed by the AO, therefore, the penalty levied u/s 271(1)(c) being consequential to the reassessment order has no legs to stand and the same is deleted.

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

Order pronounced in the Open Court on 13th August, 2026.

Sd/- (मंजूनाथ जी) **(MANJUNATHA G.)** **लेखा सदस्य/ACCOUNTANT MEMBER**	**Sd/-** (विजय पाल राव) **(VIJAY PAL RAO)** **उपाध्यक्ष /VICE PRESIDENT**

Visakhapatnam
dated 13.08.2026.
L.Rama/Sr.PS

Copy to:

1	**KRISHNA MOHAN POTLURI, D NO 4-1, POTLURI PARKRIYA HOUSE, SAI GOKUL VALLEY, NARRAPALLI,, RANGA REDDY-501508, TELANGANA**
2	**THE ACIT, CENTRAL CIRCLE, THE ASSISTANT COMMISSIONER OF INCOME TAX, CENTRAL CIRCLE, STALIN CORPORATE BUILDING, D.NO.55-17-2 TO 4, A BLOCK, 4TH FLOOR, INDUSTRIAL ESTATE, JAWAHAR AUTO NAGAR, VIJAYAWADA-520007, ANDHRA PRADESH**
3	THE PCIT / CIT,
4	THE D.R., ITAT, VISAKHAPATNAMBENCH
5	GUARD FILE

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