आयकर अपीलीय अधिकरण, हैदराबाद पीठ

IN THE INCOME TAX APPELLATE TRIBUNAL

Hyderabad 'A' Bench, Hyderabad

श्री रवीश सूद, माननीय न्यायिक सदस्य एवं श्री मधुसूदन सावडिया, माननीय लेखा सदस्य

SHRI RAVISH SOOD, HON'BLE JUDICIAL MEMBER

AND

SHRI MADHUSUDAN SAWDIA, HON'BLE ACCOUNTANT MEMBER

आयकरअपीलसं./**I.T.A. No.1935 & 1936/Hyd/2025**

(निर्धारणवर्ष**/ Assessment Year: 2013-14 & 2014-15)**

NISHA KAPISTALAMCHETLUR Tirupati, Chittoor. PAN: BIRPK7132D	*VS.*	Income Tax Officer, Ward-1(1), Tirupati, Chittoor.
(अपीलार्थी/ Appellant)		**(प्रत्यर्थी/ Respondent)**

करदाताकाप्रतिनिधित्व/ Assessee Represented by	:	Shri K A Sai Prasad, CA
राजस्वकाप्रतिनिधित्व/ Department Represented by	:	Shri D Praveen, Sr. AR
सुनवाईसमाप्तहोनेकीतिथि/ Date of Conclusion of Hearing	:	25/03/2026
घोषणा की तारीख/ Date of Pronouncement	:	30/03/2026

ORDER

PER RAVISH SOOD, JM:

The present 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 17/09/2025, which in turn arises from the orders passed by the Assessing Officer (for short, "AO") under section 147 r.w.s 144 r.w.s 144B of the Income Tax

Act, 1961 (for short, "the Act"), dated 31/03/2022 & 30/03/2022 for the Assessment Year (AY) 2013-14 & 2014-15 respectively. As common issues are involved in the captioned appeals, the same are being taken up and disposed of vide a consolidated order. We shall first take up the appeal filed by the assessee in ITA No.1935/Hyd/2025 for AY 2013-14, wherein the impugned order of the CIT(A) has been assailed on the following grounds of appeal:

> 1. The Order of the learned Commissioner of Income Tax (A), NFAC is not correct either on facts or in law and in both.
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> 2. The Learned CIT(A), NFAC erred in upholding the action of the Assessing Officer in treating the return filed on 13.12.2021 as non-est though it was a valid return filed in response to notice under Section 148 and in the absence of a valid notice under Section 143(2) the assessment order is null and void.
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> 3. a) The notice under section 148 for A.Y. 2013-14, though digitally signed on 31.03.2021, was actually issued through the ITBA portal only on 01.04.2021, and having been issued after 31.03.2021 under the old law instead of the amended provisions of section 148 read with section 148A, the notice issued U/s 148 dated 31.03.2021 is invalid and renders the reassessment proceedings void ab initio.
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> b) Since the notice was served after 01.04.2021 it is deemed to fall under the amended regime which mandates compliance with Section 148A and sanction under the new Section 151 and in the absence of such compliance the notice is invalid and the reassessment proceedings are void.
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> 4. The reassessment notices for A.Y. 2013-14 under section 148, though dated 31.03.2021, was issued only on 01.04.2021 ie., beyond three years, without proper sanction under section 151 (ii) of the amended law, as approval was taken from the PCIT, Tirupati instead of the competent authority (PCCIT/CCIT), and hence the entire proceedings are void ab initio.
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> 5. The Learned CITIA), NFAC was not justified in upholding the addition towards long-term capital gain ignoring the principle of consistency as the same transaction in the case of the assessee's sister Smt K Anusha (PAN: CHCPK3383F) was accepted by the Department in a speaking order passed U/s 147 r.w.a 144B on identical facts and this fact was duly brought to the notice of the CITIA) but was not considered rendering the order arbitrary and unsustainable..

6. The learned CIT(A), NFAC was not justified in confirming the addition of Rs. 20,16,567 towards alleged long term capital gain treating the property as belonging to the individual ignoring that it was ancestral in nature belonging to the HUF headed by the appellant's father and supported by the Ryotwari Patta and Inam Deputy Tahsildar's order evidencing joint family ownership.

7. The learned CITIA), NFAC failed to appreciate that the sale transaction was executed through a GPA holder without knowledge or consent of the family and no sale consideration was ever received by the appellant and hence no capital gain could be said to have accrued or arisen.

8. The learned CIT(A), NFAC failed to consider the documentary evidences placed on record such as ACB freezing orders Sub-Registrar endorsements and cancellation deeds which clearly established that the property transactions were under legal dispute and no taxable event had occurred in the hands of the appellant

9. The appellant craves leave to add, amend, modify, rescind, supplement or alter any or more grounds of appeal stated herein above either before or at the time of hearing of this appeal."

2. Shri K A Sai Prasad, Learned Authorized Representative (for short, "Ld. AR") for the assessee, at the threshold of hearing of the appeal submitted that the grounds of appeal Nos. 2, 3, 4 & 5 herein above are additional grounds. The Ld. AR submitted that as the assessee, based on the aforesaid additional grounds, is seeking our indulgence for adjudicating certain legal issues based on the facts borne on record, therefore, the same be admitted.

3. We have given thought consideration and are of the view that as the assessee by raising the aforementioned additional grounds of appeal (forming part of the original grounds of appeal), i.e., ground Nos. 2, 3, 4 & 5 has sought our indulgence for adjudicating a legal issue, which requires looking no further beyond the facts available on record, therefore, we have no hesitation in admitting the same. Our aforesaid

view is fortified by the judgment of the **Hon'ble Supreme Court** in the case of **National Thermal Power Company Ltd. Vs. CIT (1998) 229 ITR 383 (SC).**

4. Succinctly stated, the AO based on the information gathered in the course of the assessment proceedings in the case of the assessee for AY 2012-13, observed that she during the year under consideration along with her father and sister had though sold certain immovable properties along with GPA holder on 14/03/2013 vide Document No.1528/2013 registered with SRO, Renigunta for a consideration of Rs.60,50,000/-, 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 31/03/2021, was issued to the assessee calling upon her to file the return of income for the year under consideration.

5. Ostensibly, the assessee, in response to the notice under section 148 of the Act, dated 31/03/2021, had filed her return of income on 13/12/2021, declaring an income of Rs. 96,000/-. The AO, observing that the assessee had failed to file her return of income in compliance to the notice issued under section 148 of the Act, dated 31/03/2021, i.e., within the prescribed period therein provided, thus held the same as non-est and declined to take cognizance of the same except for considering the information therein provided for the purpose of making best judgment assessment. Accordingly, the AO, based on his aforesaid

conviction, specifically observed that the issuance of notice under section 143(2) of the Act was being dispensed with.

6. Subsequently, the AO issued notice under section 142(1) of the Act, along with a questionnaire, wherein the assessee was called upon to furnish certain details/information. In compliance, the assessee furnished the requisite details/information.

7. During the course of the assessment proceedings, the AO observed that the assessee, along with her father and sister, had sold immovable properties along with a GPA holder on 14/03/2013, vide Document No.1528/2013 registered with SRO, Renigunta, for a consideration of Rs.60,50,000/-. On being queried, it was, inter alia, submitted by her that the subject property that was sold during the year under consideration was an ancestral property that had devolved/passed on to her along with her father and sister as 4th generation from her great grandfather, viz., Shri Srinivasacharyulu, who had originally acquired the same in the year 1946. Accordingly, it was the claim of the assessee that the subject property sold during the year under consideration was an ancestral property and she was not the full-fledged owner of the same. Also, it was the claim of the assessee that she along with her father and sister had filed a legal case against the GPA holders, and documents were prepared for cancellation of the GPA in the year 2013 and were submitted before the SRO, Renigunta in 2019 vide Document No.P579 to P584/2019, dated 20/05/2019, but

he had refused to cancel the documents for the reasons mentioned in the endorsements made in the respective documents. However, the AO held a conviction that the claim of the assessee that the matter was under litigation between the General Power of Attorney (GPA) holders and herself, her sister & her father did not carry any substance as the same had no relevance to the income tax proceedings. The AO held a conviction that, as the transfer transaction of the subject immovable property had taken place, the capital gains arising therefrom was liable to be brought to tax as per the provisions of the Act.

8. The AO based on his aforesaid deliberations, taking cognizance of the fact that the subject property was inherited by the assessee along with her other family members, thus, as per the provisions of section 49(1) of the Act determined the "cost of acquisition" of the subject property, i.e., the cost at which the same was acquired by the previous owner long period ago i.e., @ Rs.75/- as per the sale deed document No.921/1946, dated 20/04/1946, and thus, determined the "indexed cost of acquisition" at Rs.100/-. Accordingly, the AO worked out the long-term capital gains (LTCG) on the transfer of the subject property in the hands of the assessee at Rs. 20,16,567/-. The AO, vide his order under section 147 r.w.s. 144 r.w.s 144B of the Act, dated 31/03/2022 determined the income of the assessee at Rs.20,16,567/-.

9. Aggrieved, the assessee carried the matter in appeal before the CIT(A) but without success.

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

11. We have heard the Learned Authorized Representatives of both 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 drive home his contentions.

12. Shri K A Sai Prasad, CA, the Learned Authorized Representative (for short, "Ld. AR") for the assessee, at the threshold of hearing of the appeal assailed the validity of the assessment framed by the AO vide his order passed under section 147 r.w.s 144 r.w.s 144B of the Act, dated 31/03/2022. Elaborating on his contention, the Ld. AR submitted that as the assessee in response to notice issued under section 148 of the Act, dated 31/03/2021 had filed her return of income in the course of the assessment proceedings on 13/12/2021, though belatedly, the AO had grossly erred in law and facts of the case in proceeding with and framing the assessment without issuing notice under section 143(2) of the Act. The Ld. AR to fortify his contention had drawn our attention to the order passed by the AO under section 147 r.w.s 144 r.w.s 144B of the Act, dated 31/03/2022. The Ld. AR submitted that as the AO, in the absence of a valid assumption of jurisdiction, had framed the assessment, therefore, the same cannot be sustained and is liable to be struck down on the said ground itself. The Ld. AR to buttress his

contention, had drawn support from the orders of the ITAT, Hyderabad "B" Bench in Sanghi Textiles Private Limited vs. ITO in ITA No.1311/Hyd/2025, dated 07/01/2026 and Ms. Komma Reddy Satyanarayana Reddy vs. ITO in ITA No.1634/Hyd/2025 (AY: 2017-18), dated 19/12/2025. The Ld. AR had drawn our attention to Para 2 of the assessment order, wherein the AO had observed that as the assessee had failed to file the return of income in compliance to notice issued under section 148 of the Act, dated 31/03/2021 within the prescribed time period, therefore, the said return was being treated as *non-est* and the issuance of notice under section 143(2) of the Act was being dispensed with.

13. Per contra, Shri D. Praveen, Learned Senior Departmental Representative (for short, "Ld. Sr-DR") submitted that as the assessee had failed to file the return of income within the prescribed period contemplated under section 148 of the Act, the AO has rightly held the said return of income as *non-est* and refrained from taking cognizance of the same. Elaborating on his contention, the Ld. Sr-DR submitted that the view taken by the AO was correct, as in case an assessee would file a return of income on a day before the framing of the assessment, i.e., at the brink of the framing of the assessment, then, it will be impossible for the AO to take cognizance of the same. Accordingly, the Ld. Sr-DR relied upon the orders of the authorities below.

14. We have thoughtfully considered the contentions advanced by the Learned Authorized Representatives of both parties in the backdrop of the orders of the authorities below.

15. As observed herein above, the controversy involved in the present appeal is double facet, viz., (i) that as to whether or not a return of income filed in response to the notice issued by the AO under section 148 of the Act, dated 31/03/2021 after the lapse of the prescribed time period is to be construed as a return of income filed by the assessee?; and (ii) that as to whether or not pursuant to the return of income filed by an assessee in response to notice under section 148 of the Act the issuance of notice under section 143(2) of the Act by the AO is mandatory?. We find that both the aforesaid issues had been deliberated upon at length by the Tribunal, i.e., ITAT, Hyderabad "B" Bench, Hyderabad in the case of Sanghi Textiles Private Limited vs. ITO, ITA No1311/Hyd/2025, dated 07/01/2026, wherein it was held as under:

> 19. Apropos the first issue, i.e., as to whether or not the return of income filed by an assessee beyond the prescribed time period allowed vide the notice under section 148 of the Act is to be construed as a return of income, we find that the said issue had been answered by the **Hon'ble High Court of Kerala** in the case of **Chirakkal Service Co-operative Bank Ltd. v. CIT (2016) 384 ITR 490 (Kerala).** The indulgence of the Hon'ble High Court was, *inter alia,* sought for adjudicating the following substantial question of law.
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> > "Whether the return filed by the assessee beyond the period stipulated u/s 139(1)/139(4) or Section 142(1)/148 can be held as non-est in the eyes of law and has invalidated for the purpose of deciding exemption u/s 80P of the Income Tax Act, 1961 ?"

The Hon'ble High Court answered the aforesaid issue, and, held, that the "return of income" filed by the assessee beyond the period stipulated under Section 139(1) or Section 139(4) or Section 142(1) or Section 148 can also be accepted and acted upon provided further proceedings in relation to such assessment are pending in the statutory hierarchy of adjudication in terms of the provisions of the Income-tax Act. As in the present case before us, the "return of income" filed by the assessee company in compliance to the notice issued under Section 148 of the Act, dated 27.03.2021 was filed on 21.10.2021, i.e during the pendency of the assessment proceedings which had thereafter culminated vide order passed under Section 147 r.w.s 144B of the Act, dated 30/03/2022, therefore, we are of the firm conviction that there was no justification for the A.O. to have held the said "return of income" as invalid and non-est in the eyes of law. Also, support is drawn from the judgment of the **Hon'ble High Court of Patna** in the case of **CIT Vs. Nagendra Prasad, (2023) 156 Taxmann.com 191 (Patna).** The Hon'ble High Court, had observed that where the notice was issued by the A.O. u/s 148 requiring the assessee to file his return of income within thirty days but the said return was filed after eight and a half months, since the return was filed by assessee in response to the said notice, though delayed, there should have been a notice issued under Section 143(2) as the requirement to issue notice could not be dispensed with. Accordingly, based on our aforesaid observations, we are of the view that the "return of income" filed by the assessee company on 21.10.2021 i.e., in response to the notice u/s. 148 of the Act dated 27.03.2021, though delayed, did not cease to be a "return of income" in the eyes of the law.

20. We shall now deal with the core issue involved in the present appeal, i.e., whether the AO, in response to the return of income filed by the assessee company for the subject year, i.e., AY 2014-15, on 21/10/2021, in compliance to the notice issued under section 148 of the Act, before proceeding with and framing the impugned assessment was statutorily obligated to issue a notice under Section 143(2) of the Act. We find that section 143(2) of the Act contemplates that where the return of income has been furnished under section 139 of the Act, or in response to a notice under sub-section (1) of section 142, the AO or the prescribed income-tax authority, as the case may be, if, considers it necessary or expedient to ensure that the assessee has not understated the income or has not computed excessive loss or has not under paid the tax in any manner, shall serve on the assessee a notice requiring him, on a date to be specified therein, either to attend office of the Assessing Officer or to produce, or cause to be produced before the Assessing Officer any evidence, which the assessee may rely in support of the return of income. Although, at the first blush it appeared that issuance of the notice under section 143(2) of the Act is restricted only in a case where the return of income is filed by the assessee under section 139 of the Act, or in response to a notice under subsection (1) of section 142, and, thus, cannot be stretched to a case where the return of income is filed in response to a notice under section 148 of the Act, but we stand corrected on our aforesaid view. We say so, for the reason that section 148 of the Act (as was available on the statute at the relevant point of time) contemplated that the provisions of the Act shall, so far as may be, apply accordingly as if

such return were a return required to be furnished under section 139 of the Act. Accordingly, a return of income filed in response to notice under section 148 of the Act is to be treated as a return of income required to be furnished under section 139 of the Act. We thus, are of the view that as the return of income filed in response to the notice under section 148 of the Act is to be construed as a return of income filed under section 139 of the Act with all the provisions of the Act to be applied in the similar manner as it would apply to a return of income filed under section 139 of the Act, therefore, the AO to ensure that the assessee had not under stated the income disclosed by him in the return of income filed in response to notice under section 148 of the Act remains under a statutory obligation to issue a notice under section 143(2) of the Act, i.e., in a similar manner as if he would have done in response to a return of income furnished under section 139 or under section 142(1) of the Act.

21. Although the Ld. CIT-DR had tried to impress upon us that for framing of assessment under section 148 of the Act, there is no obligation cast upon the AO to issue a notice under section 143(2) of the Act, but we are unable to concur with the same. We say so, for two reasons, viz., (i) as observed by us herein above, the return of income filed by the assessee in response to notice under section 148 of the Act is to be construed as if it is a return of income filed under section 139 of the Act; and (ii) that section 148 of the Act though provides for a notice to be issued to the assessee calling upon him to file his return of income, but the machinery for framing of the assessment is not provided in the said section and for the said limited purpose the return of income so filed by the assessee is to be construed as a return of income filed under section 139 of the Act, and, thus, for framing of the assessment pursuant to the return of income filed by the assessee in response to the notice under section 148 of the Act notice under section 143(2) of the Act is mandatorily required to be issued.

22. We find that the Ld. CIT-DR had relied upon the judgment of the Hon'ble High Court of Madras in the case of B. Kubendran vs. DCIT (supra) and had emphasized upon the fact that though the same was rendered on the issue as to whether or not a notice under section 143(2) of the Act was mandatory in the context of an assessment under section 153A/153C of the Act, but the same is to be similarly applied with all the force on the same terms for framing of an assessment pursuant to the return of income filed by an assessee in response to the notice issued under section 148 of the Act. The Ld. CIT-DR, to drive home his contention, had vehemently emphasized that section 153A(1)(a) of the Act contemplates that 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. The Ld. AR submitted that the same language has been employed by the legislature in section 148 of the Act. Elaborating further on his contention, the Ld. AR had tried to impress upon us that the view taken by the Hon'ble High Court of Madras in the case of B. Kubendran vs. DCIT (supra), wherein it was held that for framing an assessment under section 153A, the issuance of notice under section 143(2) of the Act is not mandatory will equally apply with the same force for framing of an assessment on a return of income filed by an assessee in response to notice issued under section 148 of the Act.

23. We have given thoughtful consideration to the aforesaid contentions of the Ld. CIT-DR, which at the threshold of hearing appeared to be very appealing, but, are unable to persuade ourselves to subscribe to the same. We say so, for the reason that as observed by us at length herein above, section 148 of the Act can though facilitate calling upon the assessee to file his return of income in response thereto, but does not take within its fold the machinery and the procedure for framing of the assessment for which the legislature in all is wisdom had specifically provided that the return of income filed in response to notice under section 148 of the Act is to be treated as a return of income under section 139 of the Act, which, thus, would entail issuance of a notice under section 143(2) of the Act for framing of the assessment in the hands of the assessee.

24. Our aforesaid view that a notice under section 143(2) is mandatorily required to be issue where the assessee has filed a return of income in response to notice under section 148 of the Act is supported by the judgment of the **Hon'ble High Court Allahabad** in the case of **Commissioner of Income Tax (CIT) v. Rajeev Sharma (2011) 336 ITR 678 (All).** It was observed that, where the return of income is filed by the assessee in response to notice under section 148 of the Act, the AO, before proceeding to decide the controversy with regard to the escaped assessment, is mandatorily required to issue notice under section 143(2) of the Act. Also, a similar view had been taken by the **Hon'ble High Court of Madras** in the case of **CIT v. M. Chellappan (2006) 281 ITR 444 (Madras)**. The Hon'ble High Court had observed that where the assessee had filed a return of income in response to notice under section 148 of the Act, but no notice under section 143(2) was issued after filing of the said return of income, then, the same is a violation of the mandatory provisions of law, and therefore, the re-assessment order passed under section 147 of the Act was a nullity and was to be quashed. Also, we find that the **Hon'ble High Court of Rajasthan** in the case of **PCIT vs. Kamala Devi Sharma, ITA No. 197/2018, dated 10/07/2018**, had observed that the issue of notice under section 143(2) of the Act in reassessment proceedings, prior to finalizing reassessment order cannot be condoned by referring to section 292BB of the Act and was fatal to the order of the reassessment. Also, we find that the **Hon'ble High Court of Madras** in the case of **Amec Foster Wheeler Iberia SLU-India Project Office vs DCIT (2023) 148 taxmann.com 124 (Madras)** has held that where the AO did not issue notice under section 143(2) of the Act upon the assessee, then initiation of reassessment proceedings, order rejecting the assessee's objection against assumption of jurisdiction for reopening and also reference to the Transfer Pricing Officer (TPO) were to be quashed. We further find that the **Hon'ble High Court of Punjab & Haryana** in the case of **CIT vs. Nagendra Prasad (2013) 156 Taxmann.com 19 (Punjab & Haryana)** had observed that where the notice was issued by AO under section 148 of the Act requiring the assessee to file a return within 30 days, but the said return was filed after 8½ months, since return of income was filed by the assessee in response to the notice under section 148 of the Act, though delayed, there should have been a notice issued under section 143(2) as the requirement to issue notice cannot be dispensed with. Further, the **Hon'ble High Court of Delhi** in

the case of **PCIT v. S.G. Portfolio Pvt. Ltd. (2023) 454 ITR 761 (Delhi)** had, inter alia, held that where the assessee company had filed the return income in response to notice under section 148 of the Act, the AO was required to issue notice under section 143(2) of the Act for framing the assessment. Also, the **Hon'ble High Court of Madras** in the case of **Sapthagiri Finance & Investments vs. ITO (2012) 25 taxmann.com 341 (Madras)** had, inter alia, held that where the AO found that there was a problem in the return of income filed by the assessee under section 148 of the Act, which required an explanation, then he ought to have followed up by issuing notice under section 143(2) of the Act. Also, we find that the **Hon'ble High Court of Delhi** in the case of **PCIT v. Dart Infrabuild Pvt. Ltd. (2024) 460 ITR 532 (Delhi)(HC)** had observed that the issuance of notice under section 143(2) of the Act is mandatory for framing of an assessment. Also, the **Hon'ble High Court of Allahabad** in the case of **CIT vs. Salarpur Cold Storage**, **[2015] 228 Taxman 48 (Allahabad)** after relying upon the judgment of the **Hon'ble Supreme Court** in the case of **ACIT vs. Hotel Blue Moon (2010) 321 ITR 362 (SC)**, held that the requirement of issuance of a notice under section 143(2) is mandatory and cannot be brought within the meaning of a procedural irregularity. Apart from that, we find that the **"Special Bench"** of the **ITAT, Delhi** in the case of **Raj Kumar Chawla vs. ITO (2005) 1 SOT 934 (Delhi) (SB),** had held that return of income filed pursuant to notice under section 148 of the Act must assume and treated to be a return of income filed under section 139 of the Act and the assessment must thereafter be made under section 143 or 144 of the Act after complying with the mandatory provisions. Also, it was observed that pursuant to the return of income filed by the assessee in response to notice under section 148 of the Act, it is incumbent upon the assessing authority to issue notice under section 143(2) of the Act within the prescribed time period.

25. Considering the aforesaid host of judicial pronouncements, wherein it has been held that pursuant to a return of income filed by the assessee in response to notice issued under section 148 of the Act, it is incumbent on the part of the AO to issue notice under section 143(2) of the Act for framing the assessment, we respectfully follow the same.

26. Before parting, we may herein observe that though the Ld. CIT-DR in order to buttress his claim that for framing of an assessment pursuant to the return of income filed by an assessee in response to notice under section 148 of the Act, no obligation is cast upon the AO to issue a notice under section 143(2) of the Act, had relied upon two judicial pronouncements, viz., (i) B. Kubendran vs. DCIT (2021) 126 taxmann.com 107 (Madras); and (ii) Ashok Chadda vs. ITO (2011) 37 ITR 399 (Delhi), but considering the fact that there are judgments of the non-jurisdictional High Courts taking a view to the contrary, i.e., the issue of notice under section 143(2) of the Act is mandatory for framing of an assessment based on the return of income filed by the assessee in response to notice issued under section 148 of the Act, we being guided by the judgment of the **Hon'ble Supreme Court** in the case of **CIT v. Vegetable Products Ltd. [1973] 88 ITR 192 (SC),** wherein it is held that If two reasonable constructions of a taxing provision are possible, that construction which favours the assessee must be adopted, respectfully follow the latter view .

> 27. We, thus, in terms of our aforesaid observations are of the considered view that pursuant to the notice issued by the AO under section 148 of the Act, dated 27/03/2021, though the assessee company had filed its return of income in response thereto on 21/10/2021 declaring NIL income, but as the AO without issuing any notice under section 143(2) of the Act had proceeded with and framed the impugned assessment vide his order under section 147 r.w.s 144B of the Act, dated 30/03/2022, therefore, he had grossly erred in law and facts of the case in assuming jurisdiction and framing the impugned assessment, which, thus cannot be sustained and is liable to be struck down for want of valid assumption of jurisdiction on his part.
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> 28. As we have quashed the assessment for want of a valid assumption of jurisdiction by the AO, we refrain from adverting to and adjudicating the other grounds based on which the impugned assessment order has been assailed before us, which, thus, are left open.
>
> 29. Resultantly, the appeal filed by the assessee company is allowed in terms of our aforesaid observations."

16. In our view, as the facts and the issue involved in the present appeal remains the same as those involved in the aforesaid order of the Tribunal in ITA No. 1311/hyd/2025, dated 07/01/2026; or in fact stands on a better footing, as the AO in the present case while framing the assessment had at Page-2/Para-2 of his order specifically observed that the issuance of notice under section 143(2) of the Act was being dispensed with as the assessee had failed to file the return of income in compliance to the notice issued under section 148 of the Act, dated 31/03/2021, therefore, we respectfully follow the same. Accordingly, based on our aforesaid observations, we concur with the AR that the AO had grossly erred in law and facts of the case in assuming jurisdiction and framing the assessment vide his order passed under section 147 r.w.s 144 r.w.s 144B of the Act, dated 31/03/2021 without

considering the return of income filed by the assessee on 13/12/2021, and issuing a notice under section 143(2) of the Act.

17. We thus, in terms of our aforesaid observations, quash the assessment framed by the AO for want of a valid assumption of jurisdiction. As we have quashed the assessment in terms of our aforesaid observations, we refrain from adverting to and adjudicating the other issues based on which the impugned addition made by the AO has been assailed before us, which, thus, are left open.

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

ITA No. 1936/Hyd/2025

(AY: 2014-15)

19. As the facts and the issue to the extent the same pertain to the validity of the jurisdiction assumed by the AO for framing the assessment vide his order passed under section 147 r.w.s 144 r.w.s 144B of the Act, dated 30/03/2022 for the year under consideration, i.e., AY 2014-15, remains the same as were there before us in her case for the immediately preceding year i.e., AY 2013-14 in ITA No.1935/Hyd/2025, i.e., framing of the assessment without considering the return of income filed by the assessee on 12/12/2021 and issuing notice under section 143(2) of the Act, therefore, our view taken on the

said issue shall apply *mutatis mutandis* for the purpose of disposing of the present appeal, which, thus, is on the same terms allowed.

20. In the result, both the appeals filed by the assessee are allowed in terms of our aforesaid observations.

Order pronounced in the open court on 30th March, 2026.

Sd/- **(मधुसूदन सावडिया)** **(MADHUSUDAN SAWDIA)** **लेखासदस्य/ACCOUNTANT MEMBER**	**Sd/-** **(रवीश सूद)** **(RAVISH SOOD)** **न्यायिकसदस्य/JUDICIAL MEMBER**

Hyderabad, dated 30/03/2026.
***OKK/sps*
आदेशकीप्रतिलिपिअग्रेषित/ **Copy of the order forwarded to:-**

1.	निर्धारिती/The Assessee	:	NISHA KAPISTALAMCHETLUR C/o Katrapati & Associates, 1-1-298/2/B/3, Sowbhagya Avenue Apts, Ist Floor, Ashok Nagar, Street No. 1, Hyderabad, Telangana-500020.
2.	राजस्व/ The Revenue	:	INCOME TAX OFFICER, WARD-1(1), TIRUPATI O/o. The Income Tax Officer, Ward-1(1), Near SBI Tilak Road, KT Road, Chittoor, Andhra Pradesh-517507.
3.	The Principal Commissioner of Income Tax, Tirupati.		
4.	विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण /DR,ITAT, Hyderabad.		
5.	The Commissioner of Income Tax		
6.	गार्डफ़ाईल / Guard file		

आदेशानुसार / BY ORDER
KAMALA KUMAR ORUGANTI
Digitally signed by KAMALA KUMAR ORUGANTI
Date: 2026.03.30 12:13:29 +05'30'
Sr. Private Secretary
ITAT, Hyderabad.