सत्यमेव जयते

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "SMC", PUNE

BEFORE SHRI Dr. DIPAK P. RIPOTE, ACCOUNTANT MEMBER
AND
SHRI VINAY BHAMORE, JUDICIAL MEMBER

ITA No.3147/PUN/2025
Assessment Year : 2016-17

Annamma Samkutty, Flat No. 15, Mayureshwari Raj Park, B Wing, Priyadarshani Nagar, Sangvi, Pune-411027 PAN : CXKPS8417A	vs.	Income Tax Officer, Ward – 13(4), Pune
(Appellant)		(Respondent)

Assessee by	:	ShriVimal Shukla (virtually)
Revenue by	:	ShriSanjay Keshavrao Dhivare (virtually)
Date of hearing	:	17-06-2026
Date of pronouncement	:	21-07-2026

आदेश/ORDER

PER Dr. DIPAK P. RIPOTE, A.M :

This is an appeal filed by the assessee against the order of the Learned Commissioner of Income Tax (Appeals), NFAC, Delhi [Ld.CIT(A)], passed u/s. 250 of the Income Tax Act, 1961 ('the Act') for AY 2016-17 on 27.11.2025, emanating from the Assessment Order u/s 147 r.w.s. 144B of the Act, dated 31.12.2023.

Findings and analysis:

2. In this case, the Assessing Officer (AO) had received information on ITBA Portal regarding purchase of immovable property by the assessee during the year under consideration. The information received by the AO has been tabulated by the AO in the assessment order. The said Table appearing in the Assessment Order is reproduced here as under :

Information Code	Description	Source	FY 2015-16
TDS-194IA(P)	TDS Statement-Payment of consideration for purchase of immovable property (Section 194IA)	ANINAMMA SAMKUTTY	62,02,401/-
	TOTAL		62,02,401/-

2.1 The assessee was flagged by the ITBA Portal as non-filer of return of income. The AO issued notice u/s 148A(b) of the Act on 30.01.2023. The assessee filed reply on 13.02.2023. Then the AO passed an order u/s 148A(d) of the Act on 14.03.2023 and issued notice u/s 148 on the same day. The assessee filed reply during the scrutiny proceedings which is reproduced by the AO in the assessment order at page No. 4. The same is reproduced as under :

> *"Respected Sir, I have received above referred notice under section 143(2) of the income tax Act 1961 from your office for the period of FY 2015-16(AY 2016-17). This is to inform you that I am a dependent housewife with no source of income. As per the information received by the Income Tax Department, which is payment of consideration for purchase of immovable property (Section 1941A) Rs. 62,02,401/- Regarding the above property purchase, I remained as a co-owner only but all the payments made to purchase the above property were made by my spouse's earnings. My spouse, who was an NRI at that time, transferred some amount to my bank account for the Sellers/Builders payment. From his earnings and savings made in outside India, we bought the property. Below I have provided, both, my Bank statement as well as my spouse's NRE Bank statement for the period of FY 2015-16 for your reference. I have also attached a photocopy of my spouse's passport and visa stamps for your reference. I hope the above details meet your requirements and are adequate to consider a fit case to drop the proceedings. Please consider our reply and submissions to abandon the notice and drop the proceedings. Thank You Yours sincerely, ANNAMMA SAMKUTTY Encl: 1. Bank Statement for the period of FY 2015-16. 2. Photocopy of passport and visa stamps."*

2.2 The AO in the assessment order mentioned that the assessee filed following documents :

> *"1. Copy of Bank a/c statement NRE A/c South Indian Bank - 0147050000010329 in respect of George Samkutty (assessee's husband).*
>
> *2. Copy of Bank a/c statement NRE A/c South Indian Bank - 0147053000010194 in respect of assessee.*

3. Copy of Stamp duty/Registration Fee receipt.

4. Fund Flow statement.

5. Sale deed copy.

6. Passport copy of George Samkutty (assessee's husband).”

2.3 After considering the reply of the assessee, the AO made addition of Rs.10,00,000/-.Aggrieved by the Assessment Order Assessee filed appeal before the CIT(A) who confirmed the addition.

3. We have perused the submissions filed by the assessee, the AO has admitted that the assessee along with her husband had purchased property during the year. It seems the assessee’s share was 50%. In this case, the AO had issued notice u/s 148A(b) of the Act on 30.01.2023 for the AY 2016-17 alleging escapement of income of Rs.62,02,401/-. We have already reproduced the so called information which was available on ITBA Portal. Thus, the notice u/s 148A(b) and notice u/s 148 of the Act was issued for AY 2016-17 after a lapse of 3 years. The AO had not bothered to verify the registered purchased documents before issuing notice u/s 148 or notice u/s 148A(b) of the Act. Had the AO obtained copy of Registered Purchase Deed. The AO would have understood that the property was purchased by two persons, hence, the assessee’s share would have been less than Rs.50,00,000/-.

3.1 It is important to mention here that CBDT Circular No. F.No.299/10/2022-Dir(Inv.III)/647, dated 22.08.2022 has specifically stated in the Circular that the information available on INSIGHT Portal must be verified independently by the AO and supervisory authorities were given the responsibilities. The relevant paragraphs of the said Circular are as under :

3). Further, it is re-emphasized that-

i. Before initiating proceedings under Section 148/147 of the Act,any information available on data-base/portal of the Income Tax Department shall be verified before drawing any adverse inference against the taxpayers. It is not out of place to mention here that the information made available/data uploaded by the reporting entities may not be fully accurate due to inter alia, error of human nature technical nature, etc. Therefore, due verification may be carried out and opportunity of being heard be given to the taxpayer before initiating proceedings under Section 148/147 of the Act.

ii. The supervisory authorities are hereby advised to keep an effective supervision so as to ensure that all extant Instructions/Guidelines/Circulars/SOPs are duly followed by the Assessing Officers in their charge.

4. In addition to above, it is also advised that all the information/reports which are being uploaded on any of the functionalities/portal of Directorate of Systems should be verified by the Officer uploading the said information/reports. Supervisory authorities are to ensure that all extant Instructions/Guidelines/Circulars/SOPs in this regard are duly followed by Officer uploading the said information/reports.

5. This issues with the approval of Chairman i/c Member (Inv.), CBDT.

Yours faithfully,

22/08/2022

(Pavitra Kumar)
Under Secretary, Investigation-III,
CBDT, New Delhi.
Email: usinv3-cbdt@gov.in

3.2 Thus, CBDT Circular had accepted in the Circular that data uploaded by the various institutions may have factual errors and therefore CBDT specifically directed the AO and the supervisory authorities to verify the data before initiating any proceedings. However, in disrespect of the Circular the AO issued notice u/s 148 of the Act alleging the escapement of income.

4. The Hon'ble Bombay High Court in the case of Smt. Sunita Purushottam Virgincar Vs. ITO, (2024) 164 taxmann.com 352 (Bombay) has held as under :

> *Quote, "**15.** The Revenue is seeking to reopen the assessment under Section 148 of the IT Act on the alleged ground that the income chargeable to tax has escaped assessment. The recorded reasons in detail state that "... From the material available on record, the actual payment made by M/s. Adwalpalkar Constructions & Resorts Pvt. Ltd (TAN : BLRA14822D) to the Assessee is Rs. 3,59,50,000. The Assessee has not disclosed an amount of Rs. 64,43,000/- in her return of income filed......... ... ".*
>
> ***18.** Moreover, we find that the substantive rights of the original petitioner were governed by the provisions of the Portuguese Civil Code. The fact that*

the original petitioner is governed by the Portuguese Civil Code has been duly brought before the respondents. In our opinion, mere non-mention of the same in the return of income would not give rise to a situation where the tax on the sale of property beyond the share of the original petitioner could be taxed in her hands. The respondents do not appear to have disputed that the original petitioner was indeed governed by the provisions of the Portuguese Civil Code and this was already on record of the Revenue (Exhibit E/97). Moreover, the petitioner's husband had passed away way back in the year 1986and the share of her husband had devolved from the date of his demise equally on his children. This position was also known to the Revenue when their return of income was filed.

19. *The next reason cited by the Revenue for rejecting the explanation is, "Copy of the Sale Deed was not available at the time of recording of reasons". We find that even such reasoning is fallacious and not tenable in law. The information from the office of the Sub Registrar's for any registration is duly transmitted to the respondents. The execution of such Sale Deed was already on record. In such a case if the respondents fail to take note of the document which was available for transmission to the respondents from the Sub-Registrar's office, in our view, the assumption of jurisdiction will have to be regarded as erroneous. In any case, we find that at the time of passing of the order dated 16.07.2021, the Sale Deeds (which were available) ought to have been taken into consideration.*

20. *For the reasons aforesaid, we are satisfied that in view of the aforesaid jurisdictional errors, the notice dated 28.05.2019 and the order dated 16.07.2021 deserve to be quashed and set aside"Unquote.*

5. The Hon'ble Bombay High Court in the above referred case has held that it was mandatory for the AO to obtain copy of Registered Sale Deed before issuing notice u/s 148 of the Act. Not obtaining copy of Registered Sale Deed before issuing notice u/s 148 of the Act leads to jurisdictional error.

6. In the case of the assessee, the assessee had also purchased property along with her husband. Therefore, for AY 2016-17, the assessee's share was definitely less than Rs.50,00,000/-.

7. Section 149 of the Income Tax Act is reproduced here as under :

*"**149.** (1) No notice under section 148 shall be issued for the relevant assessment year,—*

(a) if three years have elapsed from the end of the relevant assessment year, unless the case falls under clause (b);
[*(b) if three years, but not more than ten years, have elapsed from the end of the relevant assessment year unless the Assessing Officer has in his possession books of account or other documents or evidence which reveal that the income chargeable to tax, represented in the form of—*
(i) an asset;
(ii) expenditure in respect of a transaction or in relation to an event or occasion; or
(iii) an entry or entries in the books of account,
*which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more:****]”***

8. Thus, as per section 149(1)(b) of the Act no notice u/s 148 shall be issued after a lapse of 3 years from the end of the assessment year unless income escaping assessment is more than Rs.50 lakhs and the Assessing Officer has in his possession books of account or other documents or evidence which reveal that the income chargeable to tax represented in the form of an asset has escaped assessment. It means after a lapse of 3 years from the end of the assessment year, the AO must have in possession, books of account or other documents or evidence which reveal that income chargeable to tax has escaped assessment. Also after a lapse of 3 years from the end of the assessment year, notice u/s 148 shall be issued only if escapement is more than Rs.50 lakhs.

8.1 In the case of assessee we already reproduced the chart which was visible to the Assessing Officer. Thus, Assessing Officer had issued notice merely based on the chart visible to him on the Income Tax Portal. Therefore, the first condition to issue notice u/s 148 after a lapse of 3 years that AO must have evidence which reveal escapement of income of more than Rs.50 lakhs is not fulfilled, as the chart appearing on the Income Tax Portal without copy of the Registered Sale Deed cannot be considered as documents or evidence, evidencing escapement of income.

8.2 In the case of the assessee, the assessee as co-owner along with her husband for the purchase of property at Rs.62,02,401/-. During the proceedings u/s 148A(b) of the Act assessee had submitted copy of the sale deed and submitted that the said property has been purchased along with her husband and her husband had funded it. In these facts, the assessee's share was less than Rs.50,00,000/-. Therefore, notice u/s 148 could not have been issued for AY 2016-17 after a lapse of 3 years as the alleged escapement of income is less than Rs.50,00,000/-.

8.3 In these facts and circumstances of the case notice u/s 148 of the Act dated 14.03.2023 for AY 2016-17, issued after a lapse of 3 years from the end of the AY 2016-17 is bad in law. Accordingly, consequential reassessment order is bad in law.

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

Order pronounced in the open Court on 21st July, 2026

Sd/-	Sd/-
(VINAY BHAMORE)	(Dr. DIPAK P. RIPOTE)
JUDICIAL MEMBER	ACCOUNTANT MEMBER

पुणे/Pune;
दिनांक/Dated :21-07-2026

Ravi Kumar

<u>आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order is forwarded to</u>:

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. The concerned Pr.CIT, Pune
4. DR, ITAT, 'A' Bench, Pune
5. गार्डफाईल / Guard file.

आदेशानुसार/ BY ORDER,

// True Copy //

Assistant Registrar
आयकरअपीलीयअधिकरण, पुणे / ITAT, Pune