VERENDRA KALRA & CO
CHARTERED ACCOUNTANTS

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Income earned in NRE Account was exempt u/s 10(4)(ii) and source of income was explained and TRC was also provided by Uganda Revenue Authority, notice u/s 148 and order u/s 148A(d) were to be quashed and set aside.

Facts

The appellant is a Non-Resident Indian and Managing Partner of Grant Thornton, Uganda. The appellant over the past years, has been remitting overseas savings NRE Accounts in India and investing in funds, time deposits and other approved modes of investment. It is the case where overseas income earned is not taxable in India in terms of Section 9 r.w.s. 5. Therefore, the appellant was not under obligation to file Income Tax Return in India. The appellant received intimation u/s 148A(a) for the FY 2018-19 stating that the respondent is in possession of the information that despite carrying out the transaction of INR 20.93 crores, the return was not filed by the appellant. In response to the notice, the appellant furnished his response on the online portal on providing his explanation against each piece of information. The respondent did not consider the reply filed by the appellant and proceeded to pass impugned order u/s 148A(d). Being aggrieved appellant has preferred the present petition.

Ruling

Considering the submissions, ITAT noticed that the status of appellant as NRI and having settled in Uganda, is not in dispute. In response to the notice u/s 148A(a), the appellant had filed its reply in which the source of income was explained. The respondent has not considered the response given by the appellant. From the facts of the case, ITAT found that it is evident that the remission was from the overseas savings to NRE Accounts in India. The appellant has furnished the TRC issued by the Uganda Revenue Authority to substantiate that he is a tax resident in Uganda. Thus, on both the counts, the income earned in NRE Account is exempt u/s 10(4)(ii) as the source of income is explained by the appellant. ITAT therefore allowed the appeal file by the appellant.

Source: High Court, Gujarat in Anilkumar Ramabhai Patel vs ITO vide [2025] 178 taxmann.com 634 (Gujarat) on September 15, 2025

Where AO passed reassessment order making an addition being alleged unexplained investment in shares, impugned order was quashed, since AO did not consider the reply made by appellant in response to SCN cum draft assessment order.

Facts

The appellant is an individual, having income from various sources including the income from other sources, long term capital gain, agricultural income and income from partnership firm. The appellant filed return of income u/s 139(1) declaring total income of INR 3.24 lacs-for AY 2018-19. No regular scrutiny assessment was made in the case of appellant. Thereafter, the appellant received a notice u/s 148A(b) stating that, genuineness of loss pertaining to sale of shares of Kushal Limited cannot be ascertained, and hence, income to the extent of such loss has escaped assessment. Thereafter, Respondent passed order u/s 148A(d) stating that, the case of the appellant is a fit case for issuance of notice u/s 148 as income chargeable to tax of INR 19.88 lacs in respect of transactions pertaining to sale of shares of Kushal Limited has escaped assessment which was followed by notice u/s 148. Meanwhile, the case of the appellant was transferred to National Faceless Assessment Unit. The appellant also received notice u/s 142(1) asking to furnish the details pertaining to transactions executed with Kushal group. The appellant, in pursuance of the notice, filed the same return of income as declared in the return filed u/s 139(1). In response to the notice, the appellant furnished the requisite details including the complete details relating to transaction executed with Kushal group. Thereafter, notice u/s 143(2) was issued. Ultimately, Respondent issued SCN cum draft assessment order proposing an addition of INR 56.88 lacs u/s 69 being alleged unexplained investment made in the shares. It is the case of the appellant that, while in the order passed u/s 148A(d), only loss pertaining to transactions executed were doubted, but in the SCN, additions proposed on the value of entire investment by considering it as unexplained investment u/s 69 r.w.s. 115BBE to which the appellant duly responded along with the supporting documents. Thereafter, the respondent passed an order u/s 144B r.w.s. 147 making an addition of INR 56.88 lacs being alleged unexplained investment u/s 69 r.w.s. 115BBE.

Rulings

In view of the same, HC stated that it cannot be disputed that the impugned order is passed in clear breach of principles of natural justice and, therefore, de hors the settled principles of law. Therefore, without entering merits and only on this ground, the impugned order passed u/s 147 r.w.s. 144B was quashed and set-aside and the matter is remanded to respondent-AO to pass afresh de-novo order, in accordance with law after considering the reply of the appellant as well as providing opportunity of hearing, if desired by the appellant. The petition was disposed of accordingly.

Source :High Court, Gujarat in Mehul Ravjibhai Surani vs Assessment Unit Income-tax Department vide [2025] 178 taxmann.com 575 (Gujarat) on September 16, 2025.

Reassessment proceedings u/s 147 stands invalid if notice u/s 148 is sent by speed post without acknowledgement, as presumption of service u/s 27 of General Clauses Act and section 114(f) of Evidence Act applies only to registered post.

Facts

The appellant filed his return of income for AY 2002-03 declaring income of INR 3.91 lacs. Thereafter, on the information received from the Central Excise Department, the AO, after taking the required approval, issued notice u/s 148 for the AYs 2001-02, 2002-03 and 2003-04 via speed post, but no return was filed. Thereafter, notice u/s 142(1) was also issued requiring the appellant to furnish some information but in response to the same, neither the appellant nor his AR appeared nor filed any application for adjournment. Thereafter, another notice was also sent to the appellant at two addresses available on record. Still the appellant failed to appear before the AO. Thereafter, the AO sent the Income Tax Inspector to deliver a notice to the address on record. However, the Income Tax Inspector reported that the whereabouts of the appellant could not be ascertained. Therefore, AO continued with the re-assessment proceeding and passed exparte order u/s 147 r.w.s. 144 assessing the total income of appellant at INR 11.88 lacs for the AY 2003-04 and this order was sent to the appellant's address in Khandaar Swai Madhopur, Rajasthan, which was duly received by him against which the appellant filed an appeal before the CIT(A), Agra, which was decided in favour of the appellant stating that in the absence of service of notice issued u/s 148, the process of initiating re-assessment proceedings u/s 142 was erroneous. The ITD (Revenue), feeling aggrieved by the order, preferred an appeal before the ld. Tribunal.

Ruling

The ld. Tribunal recorded finding that envelope having the notice so returned is not readily traceable and though there was specific finding of assessing and appellate authorities in that envelope sent through speed post to the appellant containing notice was returned back. Therefore, ITAT decided this in favour of the appellant and concludes that there was no service of notice u/s 148 through post upon the appellant.

Further, ITAT also stated that the failure to affix the notice at the last known address of the appellant especially when he was not traceable at that address, it is relevant to mention that service through ITO was attempted by the AO in accordance with Part II of Section 282(i) which is aligned with the Order V, Rule 17 of Code of Civil Procedure, which requires affixation of notice when personal service is not possible. In the present case, it is not in dispute that ITO did not affix notice at the appellant's address even though appellant was not traceable there. Therefore, service of notice through personal service was not validly made. Therefore, substantial question is also decided in favour of the appellant by observing the service of notice through the Income Tax Inspector was also not made upon the appellant by affixing the same on the address of the appellant in absence of personal service upon the appellant.

Source : High Court, Allahabad in Mahesh Gautam vs CIT vide [2025] 178 taxmann.com 597 (Allahabad) on September 19, 2025.

Denial of registration u/s 12A to a government-notified religious institution (temple) solely due to non-furnishing of a trust deed was unwarranted and, thus, Commissioner (Exemptions) was to be directed to grant registration.

Facts

The trust is stated to be established to provide relief to the poor, support individuals and organizations, maintain a cow shelter and uplift underprivileged section of society through charitable activities. The assessee has been granted provisional registration on 27-05-2021 for AYs 2021-22 to 2023-24. All these documents were furnished by the assessee while seeking permanent registration before Ld. CIT(E). To establish bona fide nature of activities being carried out by the assessee-trust, the assessee had submitted authorization letters issued by District Magistrate permitting expenditure towards the marriage of underprivileged girls. The assessee had also furnished copies of proceedings books, resolutions and approvals for incurring charitable expenditure. Once the provisions of section 35 of HPPRICE become applicable, the provisions of any other enactment governing charitable or religious trusts including the charitable and Religious Trusts Act, 1920 automatically cease to apply. The assessee is a notified entity under Schedule-1 of HPPRICE Act. In such a case, the requirement of having a trust deed would not apply in the case of the assessee. The assessee, in fact, is not created by way of trust-deed rather it is a notified religious institution under statute. The assessee is governed by the provisions of statute and therefore, the question of furnishing of trust deed would not arise. The assessee is an ancient temple and its administration, in public interest, has been taken over by HP State Government. Upon notification under the statute, the Temple Trust ceases to exist, and the governance of the institutions would stand governed solely in accordance with the provisions of HPPRICE Act, 1984. On these facts, in our considered opinion, the impugned registration could not be denied to the assessee simply because it failed to furnish the trust-deed. In our considered opinion, the assessee had filed sufficient documentary evidence to Ld. CIT(E) in support of its claim which are to be accepted.

Rulings

ITAT placed reliance on Chandigarh Tribunal in the case of Temple Trust vs CIT (Exemptions) [2022] 142 taxmann.com 12/196 ITD 482 (Chandigarh - Trib.) which has identical facts. In that case, the assessee trust relied on the aforesaid decision of Hyderabad Tribunal and the bench took a view favoring the assessee. The Hon'ble Gujarat High Court in the case of Pr. CIT (Exemptions) vs Dawoodi Bohra Masjid [2018] 90 taxmann.com 312/402 ITR 29 (Gujarat) held that where a religious trust was not created under an instrument, factum of existence of trust could also be established by producing documents evidencing creation of trust. Considering all the above stated facts, ITAT directed the ld. CIT(E) to grant impugned registration to the assessee-trust as per its application. The appeal was therefore allowed.

Source : ITAT, Chandigarh in the case of Shree Ram Gopal Temple Trust vs CIT (Exemptions) vide [2025] 178 taxmann.com 698 (Chandigarh Trib.) on Sep 23, 2025

Assumption of jurisdiction for revision was unsustainable in law where PCIT invoked section 263 solely due to a later search on political party with no direct incriminating material against assessee on account of claim of deduction u/s 80GGC for donation to a political party.

Facts

The appellant filed his return for the AY 2020-21 declaring total income of INR 1.01 crores and the case was selected for limited scrutiny under CASS with the specific reason of verification of deductions claimed under Chapter VI-A. During assessment proceedings, the ld. AO issued notice u/s 142(1), calling upon the appellant to furnish section wise details of deductions claimed with supporting documentary evidence, details of earnings under relevant heads, note on eligibility criteria, and bank statements along with details of all bank accounts. In response, the appellant submitted his detailed reply enclosing, audited accounts, COI, passbook of PPF account, insurance premium receipts, and donation receipts made to political party u/s 80GGC. The appellant specifically furnished receipts in respect of donations made to the Kisan Party of India (INR 15 lacs in aggregate) as well as other political parties, along with bank account statements substantiating the claim. After examination of the submissions, the AO, in the assessment order passed u/s 143(3) r.w.s. 144B, accepted the claim of deduction made by the appellant under section 80GGC, along with other deductions, and completed the assessment by accepting the returned income.

Subsequently, the ld. PCIT, on examination of the assessment record, noted that the appellant had made donation of INR 15 lacs to the Kisan Party of India and claimed deduction u/s 80GGC which was a Registered Unrecognized Political Party and had been subjected to search action u/s 132.

ITAT Rulings

According to the PCIT, the investigation had revealed that the said party was engaged in a bogus donation racket, whereby donations received through banking channels were returned to donors in cash after deducting commission. The AO disallowed the deduction claimed by the appellant u/s 80GGC whereas the ld. PCIT issued a notice u/s 263 proposing to revise the order of the AO. In response, the appellant filed detailed submissions objecting to the assumption of jurisdiction by the PCIT. The appellant contended that the AO had made detailed enquiries on the claim of deduction under Chapter VI A, including u/s 80GGC, to which the appellant had furnished full particulars, evidence and receipts. It was argued that the AO, after due verification, had accepted the claim. The appellant further relied on several judicial precedents, including those of the Hon'ble jurisdictional High Court and the Hon'ble Supreme Court, to contend that once the AO had taken a plausible view after due enquiry, the PCIT could not invoke revisionary jurisdiction u/s 263 merely to substitute his own view.However, the ld. PCIT, after considering the reply of the appellant, was not convinced with the submissions so made. The PCIT observed that the AO had failed to make proper and meaningful enquiries about the claim of deduction, even though adverse material had come to light during search and seizure action u/s 132 in the case of Kisan Party of India indicating that the donations received were not genuine. According to the PCIT, the mere production of receipts and banking channel transactions by the appellant could not establish the genuineness of the donations, and the AO was duty bound to have examined the matter in greater depth before allowing such claim. Placing reliance on the ratio laid down by various judicial forums, the PCIT concluded that the assessment order passed u/s 143(3) r.w.s. 144B suffered from error both on facts and in law, and such error had caused prejudice to the interest of the Revenue. The PCIT, therefore, set aside the said assessment order and directed the AO to frame a fresh assessment de novo after making proper and detailed enquiries on the claim of deduction u/s 80GGC. Aggrieved by the order of PCIT, the appellant is in appeal before the ITAT.

Rulings

ITAT stated that it is an admitted position that the AO issued a detailed notice u/s 142(1) calling for specific information regarding the deductions claimed under Chapter VI-A, including the donation made u/s 80GGC. In response, the appellant furnished a detailed reply enclosing donation receipts, bank statements, and supporting documents, which were taken on record. The AO, after recording that the evidence had been verified, accepted the claim and completed the assessment u/s 143(3). It is also an undisputed fact that the search u/s 132 in the case of the political party was conducted in March 2021, i.e. much prior to the passing of the assessment order. However, the ld. PCIT, while invoking revisional jurisdiction, has not referred to or brought on record any incriminating material, seized documents, or statements recorded during such search which specifically connect the appellant's donation to the alleged racket of bogus donations. The order of the PCIT merely proceeds on general observations and based on audit objection, without establishing any nexus of adverse material with the appellant's case.

Source : ITAT, Ahmedabad in Vitthaldas Nathubhai Shah vs PCIT vide [2025] 178 taxmann.com 632 (Ahmedabad – Trib.) on September 24, 2025

Let's Connect

+91.135.2743283, +91.135.2747084

3rd Floor, MJ Tower, 55, Rajpur Road, Dehradun - 248001

E: info@vkalra.com | W: vkalra.com

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For any further assistance contact our team at kmt@vkalra.com