

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“C” BENCH MUMBAI**

**BEFORE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER &  
MS. PADMAVATHY S, ACCOUNTANT MEMBER**

**ITA No. 4981/Mum/2024  
(Assessment Year: 2016-17)**

The Imperial Condoninium Level -2, FM Office, The Imperial Tower, BB Nakashe Marg, Tardeo, Mumbai – 400034.	Vs.	ACIT, Circle – 19(3) Room No. 206, 2 <sup>nd</sup> Floor, Matru Mandir, Grant road, Mumbai – 400007.
PAN/GIR No. AADAT4393D		
(Applicant)		(Respondent)

Assessee by	Shri Vijay Mehta
Revenue by	Shri Krishna Kumar

सुनवाई की तारीख/Date of Hearing	07.11.2024
घोषणा की तारीख/Date of Pronouncement	08.11.2024

आदेश / ORDER

**PER SANDEEP GOSAIN, JM:**

The present appeal has been filed by the assessee challenging the impugned order 02.08.2024, passed u/s 250 of the Income Tax Act, 1961 ('the Act'), by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi ('Ld. CIT(A)'), for the assessment year 2016-17.

2. At the very outset, it was submitted by the Ld.AR that as per the new provisions u/s 149 Sub Clause (1) Sub Clause

(b) of the Income Tax Act which is effective from 01.04.2021, the reopening can only be done in the cases where the escaped income is likely to be more than 50 lakhs. Undisputedly in the facts of present case the amount of escaped income as determined by the Ld.AO is Rs. 7,54,000/- which is below the stipulated mandatory limit. Thus, accordingly the entire reassessment is bad in law.

3. In this regard reliance has also been placed on the decision of Hon'ble Supreme Court in the case of Union of India Vs. Rajeev Bansal, [2024] 167 taxmann.com 70 (SC), wherein it has been held as under:

*"50. Another important change under section 149(1)(b) of the new regime is the increase in the monetary threshold from Rupees one lakh to Rupees fifty lakhs. The old regime prescribed a time limit of six years from the end of the relevant assessment year if the income chargeable to tax which escaped assessment was more than Rupees one lakh. In comparison, the new regime increases the time limit to ten years if the escaped assessment amounts to more than Rupees fifty lakhs. This change could be summarized thus:*

<i>Regime</i>	<i>Time limit</i>	<i>Income chargeable to tax which has escaped assessment</i>
<i>Old regime</i>	<i>Four years but not more than six years</i>	<i>Rupees one lakh or more.</i>
<i>New regime</i>	<i>Three years but not more than ten years</i>	<i>Rupees fifty lakhs or more.</i>

51. Given Section 149(1)(b) of the new regime, reassessment notices could be issued after three years only if the income chargeable to tax which escaped assessment is more than Rupees fifty lakhs. The proviso to Section 149(1)(b) limits the retrospectivity of that provision with respect to the time limits specified under section 149(1)(b) of the old regime.

52. In *Ashish Agarwal (supra)*, this Court held that the benefit of the new regime must be provided for the reassessment conducted for the past periods. The increase of the monetary threshold from Rupees one lakh to Rupees fifty lakh is beneficial for the assesses. Mr. Venkataraman has also conceded on behalf of the Revenue that all notices issued under the new regime by invoking the six year time limit prescribed under section 149(1)(b) of the old regime will have to be dropped if the income chargeable to tax which has escaped assessment is less than Rupees fifty lakhs.

53. The position of law which can be derived based on the above discussion may be summarized thus: (i) Section 149(1) of the new regime is not prospective. It also applies to past assessment years; (ii) The time limit of four years is now reduced to three years for all situations. The Revenue can issue notices under section 148 of the new regime only if three years or less have elapsed from the end of the relevant assessment year; (iii) the proviso to Section 149(1)(b) of the new regime stipulates that the Revenue can issue reassessment notices for past assessment years only if the time limit survives according to Section 149(1)(b) of the old regime, that is, six years from the end of the relevant assessment year; and (iv) all notices issued invoking the time limit under section 149(1)(b) of the old regime will have to be dropped if the income chargeable to tax which has escaped assessment is less than Rupees fifty lakhs."

4. On the other hand, the Ld. DR relied upon the orders passed by the revenue authorities.

5. We have heard the counsels of both the parties and also perused the orders passed by the revenue authorities and judgment cited by Ld.AR. Since, in the present case the

reopening was initiated vide notice u/s 148 of the Act dated 29.07.2022 and as per Sec. 149 Sub Clause (1) Sub Clause (b) of the Income Tax Act, the reopening can only be initiated where the escaped income is more than 50 lakhs and since undisputedly in the present case the escaped income as determined by the Ld.AO is Rs. 7,54,000/-. Therefore, in our view the entire exercise of reassessment is bad in law and invalid and is accordingly held as such. In the net result the appeal of the assessee is allowed and the reassessment proceedings stands quashed with no orders as to cost.

6. In the result the appeal filed by the assessee is allowed.

Order pronounced in the open court on 08.11.2024.

Sd/-

**(PADMAVATHY S)**  
**ACCOUNTANT MEMBER**

Sd/-

**(SANDEEP GOSAIN)**  
**JUDICIAL MEMBER**

Mumbai, Dated 08/11/2024

KRK, PS

**आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / The CIT(A)
4. आयकर आयुक्त (अपील) / Concerned CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुम्बई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

1.

उप/सहायक पंजीकार ( Asst. Registrar)  
आयकर अपीलीय अधिकरण, मुम्बई / ITAT, Mumbai