

**IN THE INCOME TAX APPELLATE TRIBUNAL  
"J" BENCH, MUMBAI**

**SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER  
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER**

**ITA No. 2853/MUM/2024  
(Assessment Year: 2017-18)**

**Manisha Anil Sharma**

43/43, Kuber, Sector-17,  
Vashi, Navi Mumbai – 400705.  
Maharashtra.  
[PAN:AHYPS4641Q]

..... **Appellant**

Vs

**The Income Tax Officer  
(INT TAX)-4(2)(1)**

Room No.1728, 17<sup>th</sup> Floor,  
Air India Building, Nariman Point,  
Mumbai – 400021, Maharashtra.

..... **Respondent**

**Appearance**

For the Appellant/Assessee : Shri Kunal Dilip Lunawat  
For the Respondent/Department : Shri Mehul Jain

**Date**

Conclusion of hearing : 18.10.2024  
Pronouncement of order : 18.10.2024

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**ORDER**

**Per Rahul Chaudhary, Judicial Member:**

1. This present appeal preferred by the Assessee against the Final Assessment Order, dated 31/03/2024, passed by the Assessing Officer under Section 147 r.w.s. 144C(13) of the Income Tax Act, 1961 [hereinafter referred to as 'the **Act**'], as per the direction issued by Commission of Income Tax [Dispute Resolution Panel (3)], Mumbai - 2 [for short '**DRP**'] on 23/02/2024 under Section 144C(5) of the Act for the Assessment Year 2017-18.
2. The Appellant has raised following grounds of appeal :

- "1. *That having regard to the facts and circumstances of the case, the Ld. AO has erred in and the DRP has compounded that error by confirming the action of the Ld. AO in assuming jurisdiction under Section 147 of the Act as well as upholding the validity of the reassessment Proceedings under Section 147 read with section 148 of the Act, when initiation of proceedings did not satisfy necessary requisites including monetary limit contained in Section 147 read with section 148 of the Act and there being no reason to believe that any income chargeable to tax had escaped assessment and consequently the final assessment order, is without jurisdiction and merit, is void ab initio and should be quashed.*
2. *That having regard to the facts and circumstances of the case, the Ld. AO has erred in and the DRP has further erred in confirming the action of the Ld. AO, for initiation of reassessment proceedings by the Ld. AO had relied on the statement of Mrs. Pushpa Parakh, which is factually incorrect and false, as Mrs. Pushpa Parakh was expired as on 25/02/2017, hence question of giving her statement does not arise, and the reopening is based on incorrect facts hence void ab initio.*
3. *On the facts and in the circumstances of the case, and in law, the Ld. AO, as well as Hon'ble DRP, grossly erred in confirming/making addition of Rs.9,34,100/- u/s.68 consequently imposing tax u/s.115BBE of the Income Tax act, on two counts, that the conditions for invocation of section 68 are absent and he had not considered the submission made by the assessee including affidavit.*
4. *On the facts and in the circumstances of the case, and in law, the Ld. AO, as well as Hon'ble DRP, grossly erred in confirming/making addition of Rs.2,24,639/- u/s.56 of the Income Tax Act, the additions were made capriciously and without giving due consideration to the papers and evidence on record. The Ld. AO had not conducted any inquiry or put on record how he had calculated taxable amount. He had failed in calling information from the insurance company about the details of payment received by the assessee and therefore the impugned addition on the basis of conjecture and surmises need to be deleted.*
5. *That Both the lower authorities (The AO/DRP) have passed the orders without properly appreciating the facts and they further*

*erred in grossly ignoring various submissions, faultless explanations and information submitted by the appellant from time to time which ought to have been considered before passing the impugned appeal order. This action of the lower authorities is in clear breach of law and Principles of Natural Justice and therefore deserves to be quashed.*

6. *The Ld. AO erred in initiating penalty proceedings u/s.270A(1) r.w.s. 270A(8) and 271AAC of the Income Tax Act.*
7. *The Ld. AO erred in imposing interest u/s.234B and 234D of the Income Tax Act."*

3. The relevant facts and brief are that the for the Assessment Year 2017-18 reassessment proceedings were initiated in the case of the Appellant for the reason that cash deposits of INR 9,30,000/- were made in the bank account maintained by the Appellant with Saraswat Cooperative Bank Ltd during the demonetization period. The notice under Section 148 of the Act was issued in the case of the Appellant on 15/06/2021. Thereafter, pursuance to the judgment of the Hon'ble Supreme Court in the case of Union of India & Ors. Vs. Ashish Agrawal: (2022) 444 ITR 1 (SC), the aforesaid notice was treated as show-cause notice issued in terms of Section 148A(b) of the Act (under new regime introduced by Finance Act, 2024) was issued on 23/07/2022. In response, the Appellant filed return of income on 11/08/2022. The aforesaid reassessment proceedings culminated into Final Assessment Order, dated 31/03/2024, passed under Section 147 read with Section 144C(13) of the Act whereby (a) addition of INR.9,34,100/- was made under Section 68 of the Act and (b) addition of INR.2,24,639/- was made under Section 56 of the Act.
4. Being aggrieved, the Appellant has preferred the present appeal before the Tribunal, inter alia, on the grounds that the assumption of the jurisdiction by the Assessing Officer under Section 147 of the Act is bad in law since as per the notice issued under Section 148 of the

Act the income that had escaped assessment according to the Assessing Officer is less than monetary limit of INR 50,00,000/- contained in Section 149(1)(b) of the Act.

5. It is admitted position that reassessment proceedings have been initiated in the present case as the Assessing Officer was of the view that income of INR 9,30,000/- had escaped assessment. It is admitted position that in the Final Assessment Order the aggregate addition made in the hands of the Appellant was INR.12,05,297/-. Thus the income that had escaped assessment is less than INR.50,00,000/-. It is admitted position that order passed under Section 148A(d) of the Act was passed on 23/07/2022 and the notice under Section 148 of the Act was issued on 23/07/2022. Three years from the end of the Assessment Year 2017-18 lapsed on 31/03/2021. As per Section 149(1)(b) of the Act (new regime introduced by Finance Act 2021), reassessment proceedings could have been initiated after the expiry of three years from the end of relevant Assessment Year only if the income chargeable to tax which escaped assessment is more than Rupees fifty lakhs. The aforesaid condition is not satisfied in the facts of the present case. We note that Hon'ble Supreme Court in the case of Union of India Vs. Rajeev Bansal [2024] 167 taxmann.com 70(SC)/03/10/2024 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</i>	<i>Rupees one lakh or</i>

	<i>not more than six years</i>	<i>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 retrospectively 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”.*
6. In view of the above, we hold that notice issued under Section 148 of the Act on 23/07/2022 is in violating of the provisions contained in Section 149(1)(b) of the Act.
7. Further we note that the approval for initiating reassessment proceedings has been taken from the Principal Commissioner of Income Tax whereas as per Section 151 of the Act the specified

authority for the purpose of 148/148A of the Act is the Principal Chief Commissioner if more than three years have lapsed from the end of the relevant Assessment Year. Thus, the notice issued under Section 148 of the Act on 23/07/2022 is in violating of the provisions contained in Section 151 of the Act.

8. In view of paragraph 6 & 7 above, notice, dated 23/07/2022 issued under Section 148 of the Act and consequent re-assessment proceeding as well as Final Assessment order passed on 31/03/2024 are quashed as being bad in law.
9. We also note that the Appellant had filed an affidavit, dated 19/04/2023, before the Assessing Officer explaining the source of cash deposits. However, since we have quashed the notice issued under Section 148 of the Act the requirement to adjudicate upon the merits does not arise.
10. Accordingly, Ground No.1 raised by the Assessee is allowed while Ground No.2 to 5 raised by the Assessee are dismissed as being infructuous. Ground No. 6, pertaining to initiation of penalty proceedings, is dismissed as being pre-mature, and Ground No. 7, pertaining to levy of interest, is dismissed as being consequential in nature.
7. In result, the present appeal preferred by the Assessee is allowed.

Order pronounced on 18.10.2024.

**Sd/-**  
**(Prashant Maharishi)**  
**Accountant Member**

**Sd/-**  
**(Rahul Chaudhary)**  
**Judicial Member**

मुंबई Mumbai; दिनांक Dated : 18.10.2024  
Milan,LDC

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त/ The CIT
4. प्रधान आयकर आयुक्त / Pr.CIT
5. विभागीय प्रतिनिधि , आयकर अपीलीय अधिकरण , मुंबई / DR,  
ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार /(Dy./Asstt. Registrar)  
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai