

**| आयकर अपीलीय अधिकरण न्यायपीठ, मुंबई |**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**"E" BENCH, MUMBAI**

**BEFORE SHRI NARENDRA KUMAR BILLAIYA, HON'BLE ACCOUNTANT MEMBER**  
**&**  
**SHRI SANDEEP SINGH KARHAIL, HON'BLE JUDICIAL MEMBER**

**I.T.A. No. 4843/Mum/2024**  
**Assessment Year: 2015-16**

<b>ITO, Ward-2(2), Kalyan</b>	Vs	<b>Hareshkumar Jethanand Tikmani,</b> <b>Ulhasnagar</b> Flant No. 305, Hardwar Apartment Link Road Ulhasnagar Maharashtra - 421002 <b>[PAN: AEAPT4001N]</b>
<b>अपीलार्थी/ (Appellant)</b>		<b>प्रत्यर्थी/ (Respondent)</b>
Assessee by :	Ms. Manisha Ghind, A/R	
Revenue by :	Shri Hemanshu Joshi, Sr. D/R	

सुनवाई की तारीख/Date of Hearing : 19/12/2024  
घोषणा की तारीख /Date of Pronouncement: 19/12/2024

**आदेश/ORDER**

**PER NARENDRA KUMAR BILLAIYA, AM:**

This appeal by the revenue is preferred against the order dated 19/07/2024 passed by NFAC, Delhi pertaining to AY 2015-16.

2. The grievance of the assessee reads as under:-

“1 Whether on the facts and circumstances of the case and in law, the Ld.CIT(A) Justified in quashing the Notice issued u/s 148 of the Income Tax Act 1961 in the case of the assessee by relying on its finding given in the case of Hexaware Technologies Limited vs Assistant Commissioner of Income Tax Circle-15(1)(2) Mumbai and Ors in Writ Petition No. 1778 of 2023

2 Whether a plain and literal construction of Section 3(1) of the TOLA permits that in all cases where "such action could not be completed/complied with within the Limitation period, provided under the specified Act, such action could be completed/complied with during the extended period granted under Section 3(1) of TOLA in accordance with the law as it stood prior to 31/03/2021?

3 Whether on a plain and literal construction of Section 3(1) of TOLA it would follow that in all cases in which Notices u/s 148 of the Income Tax Act, 1961 issued

*between 01/04/2021 and 30/06/2021 as a result of the extension/relaxation granted under the TOLA, it would be Sections 147, 148, 149 and 151 as they stood prior to their amendment by way of the Finance Act, 2021, that would govern such Notices?*

4 *Whether section 6 of the General Clauses Act would allow notices to be issued and proceedings instituted under the unamended Ss. 147, 148, 149 and 151 since by operation of S. 3(l) of TOLA a power/right of action is accrued in favour of the revenue to re-open within an extended time-period where the time limit for such action expired between 20/03/2020 and 31/03/2021?*

5 *Whether the power to take such action under the unamended S. 147, 148, 149 und 151 of Income Tax Act, 1961 saved by S.3(l) of TOLA can be said to be obliterated by Finance Act, 2021 when there is no such intention to destroy the old rights and liabilities kept alive by TOLA for a limited period of time?*

6 *Whether on the facts, in the circumstances of the case and in Law, the Lat CITIA) has erred in not appreciating that the Hon'ble Delhi High Court has vide order dated 31-08-2022 in the case of Salili Gulati Vs. Asst. Commissioner of Income Tax Cirele-49(1) Delhi and Ors. (cited supra) has upheld the department's stand that the decision of the Supreme Court in Union of India vs Ashish Agrawal SC 543 read with the time extension provided by Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 (for short TOLA) allows extended reassessment notices to travel back in time to their original date when such notices were to be issued and then new Section 149 of the Act is to be applied at that point.*

7 *Whether on the facts and circumstances of the case and in law, the Hon'ble High Court has erred in disregarding the mandate of Hon'ble Supreme Court in the case of Union of India vs Ashish Agrawal (2022) 138 taxmann.com 64 (SC) dated 04/05/2022 that all the notices issued by Revenue u/s 148 between 01/04/2021 30/06/2021 are deemed notices issues u/s. 148A (b) of the Act meaning thereby that these notices are valid notices and not barred by limitation.*

8 *The order of the CIT(A) may be vacated & that of the Assessing Officer may be restored.*

9 *The appellant craves leave to add, amend, alter or delete any ground of appeal."*

3. A perusal of the grounds read with the assessment order show that the tax effect is less than Rs. 60 Lakhs and, therefore, this appeal has to be dismissed in light of the CBDT Circular No. 09/2024, dated 17th September, 2024.

4. However, if the AO finds that the impugned appeal by the revenue is covered under the exemptions given in the CBDT Circular (supra), the AO made approach the Tribunal as per the provisions of law. For the moment, the appeal is dismissed.

5. In the result, appeal of the revenue is dismissed.

**Order pronounced in the Court on 19<sup>th</sup> December, 2024 at Mumbai.**

*Sd/-*

(SANDEEP SINGH KARHAIL)  
JUDICIAL MEMBER

*Sd/-*

(NARENDRA KUMAR BILLAIYA)  
ACCOUNTANT MEMBER

Mumbai, Dated 19/12/2024

*Sd/-*

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

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

आदेशानुसार/ BY ORDER,  
TRUE COPY

Assistant Registrar  
आयकर अपीलीय अधिकरण  
ITAT, Mumbai