

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'D' NEW DELHI**

**BEFORE SHRI VIMAL KUMAR, JUDICIAL MEMBER AND
SHRI AVDHESH KUMAR MISHRA, ACCOUNTANT MEMBER**

ITA No. 1924/Del/2024
(Assessment Year : 2015-16)

Chiara Nath 7, Maulseri House, Kapashera Estate Delhi – 110 037 PAN : AAFPN 8540 H (Appellant)	Vs.	DCIT Circle – Int. Tax 2(2)(2), New Delhi (Respondent)
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Assessee by	Shri M. R. Sahu, C.A. and Shri Akhil Mangla, C.A.
Respondent by	Shri Vijay B. Vasanta, CIT-D.R.

Date of Hearing	26.11.2024
Date of Pronouncement	27.12.2024

O R D E R

PER VIMAL KUMAR, JM:

1. The appeal filed by assessee challenging the final Assessment order under section 147 read with section 144C(13) of the Income Tax Act, 1961 [hereinafter referred to as “the Act”] dated 09.03.2024 of the Dy. Commissioner of Income Tax, Circle Int. Tax 2(2)(2) [hereinafter referred as (‘Ld. AO’)] in pursuance to the direction of learned Dispute Resolution Panel-1, New Delhi dated 19.02.2024 under section 144C of the Act for the Assessment Year 2015-16.

2. Brief facts of the case are that as per information, assessee had made Fictitious Losses in Equity/Derivative Trading during the A.Y. 2015-16. Notices under section 148 under un-amended provision was issued on 29.06.2021 and notice under section 148A(b) dated 25.05.2022, notice under section 148A(d) dated 21.07.2022 and notice under section 148 dated 21.07.2022 was issued under amended provision. Thereafter, notice under section 142(1) was issued on 03.05.2023 and 11.05.2023 requesting the assessee to provide details of dividend income received during the F.Y. 2014-15 and also show-cause why bonus stripping and dividend stripping should not be applied. Assessee filed detailed response dated 22.05.2023. Thereafter, on 26.05.2023, a show-cause was issued. Assessee filed reply dated 29.05.2022. The response was found not acceptable and additions of Rs.2,26,47,640/- & Rs.42,80,009/- were made vide draft assessment order dated 29.05.2023. Assessee preferred objections before DRP which were decided by order dated 19.02.2024. In compliance of direction of DRP, New Delhi, learned AO passed final assessment order dated 09.03.2024.

3. Being aggrieved appellant/assessee preferred present appeal. Vide applications dated 28.06.2024 and 09.10.2024, assessee took additional legal ground Nos. 1 to 4 and 5 respectively in addition to grant of appeal in Form No.36.

4. At the time of hearing, learned authorized representative for the assessee raised additional ground no.5 as under :

"5. That on the facts, and in the circumstances of the case and in law, the AO erred in initiating reassessment proceedings against the Assessee without appreciating the fact that time limit for initiation of income escaped assessment proceedings u/s.147 under the Amended Provisions w.e.f. 1st April, 2021 for the A.Y.2015-16 as per section 149(1) read with 1st Proviso was up to 31st March, 2022, thus the notices issued u/s.148A(b), dated 25/05/2022 and the order dated 21/07/2022 passed u/s.148A(d) including the foundation jurisdiction notice dated 21/07/2022 issued u/s.148 were time barred, accordingly the final reassessment order dated 09/03/2024 and the DRP order dated 19/02/2024 deserves to be quashed."

5. Learned Authorized Representative for the assessee placed reliance on the Supreme Court decision in the case of *National Thermal Power Corporation vs. CIT (1998) 229 ITR 383 (SC)* and the order of Hon'ble ITAT, Mumbai Benches in *ITA No.4812/Mum/2024 and Ors.* order dated 07.11.2024 on similar facts decided in favour of the assessee.

6. Learned Departmental Representative for the department of Revenue relied on the order of Mumbai Benches.

7. From examination of record in light of aforesaid rival contentions, the undisputed facts of *ITA No.4812/Mum/2024* and assessee's case are as under:

Particulars	Mum. Trib. Order	Assessee's case	PB Pg. Nos. Reference
Assessment Year	2015-16	2015-16	
Time limit for issuing notice u/s 148 [Amended Provision]	31.03.2022	31.03.2022	

1 st – Sec. 148 notice issued under Un-amended Provision	26.04.2021	29.06.2021	Pg. No.3
Sec.148A(b) notice issued under Amended Provision	28.05.2022	25.05.2022	Pg Nos.6 to 13
Sec. 148A(d) order passed under Amended Provision	28.07.2022	21.07.2022	Pg. Nos.14 to 22
2 nd – Sec.148 notice issued under Amended Provision	29.07.2022	21.07.2022	Pg. Nos.23 to 24
SC decision in the case of Rajeev Bansal Followed	Yes	Applicable	
2 nd Notice for A.Y. 2015-16 held as time barred	Time Barred	Time Barred	
2 nd – Sec.148 notice quashed as time barred	Yes	Needs to be Quashed	

8. Hon'ble ITAT, Mumbai in para nos. 15 and 16 held as under:

15. Thus, from the aforesaid judgment, it is clear that firstly, after 01/04/2021, the Income Tax Act has to be read alongwith substituted provisions of TOLA will continue to apply after 01/04/2021 if any action or proceedings provided under the substituted provision of the Income Tax falls for completion between 21/03/2020 to 31/03/2021 and Section 3(1), overrides Section 149 of the Income Tax Act; Similarly, TOLA will extend the time limit for grant of sanction by the authorities specified u/s.151 and if the time limit of three years falls between 21/03/2021 and 31/03/2021 then the specified authority u/s.151(i) has extended time limit till 30/06/2021. The direction of Shri Ashish Agarwal will extent to all re-assessment notice issued in old regime i.e. from 01/04/2021 to 30/06/2021 and finally Court held that ld. AO was required to issue reassessment notice u/s.148 under the new regime within the time limit surviving u/s.148 of the Income Tax Act r.w. TOLA. Thus, in all such instances for the relevant assessment years under question the time limit was extended only up to 30/06/2021 for issuance of notice u/s.148.

16. Now here in this case as noted above for A.Y.2013-14 after 148A (b), notice u/s.148 was issued on 29/07/2022; for A.Y. 2014-15 it was issued on 31/07/2022; and for A.Y.2015-16 it was issued 28/07/2022. Thus, in all these years as noted above the original time limit for six years for A.Y.2013-14 was upto 31/03/2020; for 2014-15 it was 31/03/2021; and for A.Y. 2015- 16 it was 31/03/2022. Even under the TOLA, the time limit for issuance of notice u/s 148 had expired on 30/06/2021 both for A.Y. 2013-14 & A.Y. 2014-15. For the A.Y.2015-16, the Revenue itself has

contended before the Hon'ble Supreme Court as noted above, all the notices issued on or after 01/04/2021 will have to be dropped as they will not fall for completion during the period prescribed under TOLA. Here notice u/s. 148 for the A.Y. 2015-16 has been issued on 28/07/2022 which is admittedly barred by limitation under the new provision of Section 149(1) and it is not covered under TOLA. Accordingly, all the notices are quashed being barred by limitation on the reasons given above and we are not going on the reasons given by the ld. CIT (A) for quashing the notice."

9. In view of above material facts and following the principle of precedents, it deserves to be held that the notices issued to the assessee in present case are barred by limitation under the new provision of Section 149(1) of the Act is not covered under TOLA. Accordingly, all the notices are quashed being barred by limitation.

10. The grounds of appeal 1 to 4 and additional grounds 1 to 4 have been rendered academic and are left open.

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

Order pronounced on this day 27th December, 2024

**Sd/-
(AVDHESH KUMAR MISHRA)
ACCOUNTANT MEMBER**

**Sd/-
(VIMAL KUMAR)
JUDICIAL MEMBER**

Dated: 27.12.2024

Priti Yadav, Sr. PS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI