

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“A” BENCH : BANGALORE**

BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER  
AND  
SHRI PRAKASH CHAND YADAV, JUDICIAL MEMBER

ITA No.55/Bang/2025
Assessment year : 2015-16

Heggur Nanjundappa Vishwanath, 2732, 17 <sup>th</sup> ‘B’ Cross, 7 <sup>th</sup> A Main, Lakshmi Nilaya, BSK II Stage, Bangalore – 560 070. <b>PAN: ADFPV 1980J</b>	Vs.	The Deputy Commissioner of Income Tax, Circle 7(1)(1), Bangalore.
APPELLANT		RESPONDENT

Appellant by	:	Shri Deepak Chopra, CA
Respondent by	:	Smt. Neha Sahay, Jt.CIT(DR)(ITAT), Bengaluru.

Date of hearing	:	03.03.2025
Date of Pronouncement	:	03.03.2025

**ORDER**

*Per Prakash Chand Yadav, Judicial Member*

The present appeal of the assessee is arising out of the order of the Id. CIT(Appeals), National Faceless Appeal Centre, Delhi (NFAC) dated having DIN & Order No.ITBA/NFAC/S/250/2024-25/1070293523(1) dated 12.11.2024 and relates to assessment year 2015-16.

2. The brief facts of the case are that assessee is a senior citizen, could not file the return of income(ROI) for the impugned assessment year. Thereafter, the case of the assessee has been reopened u/s. 148 of the Act on the basis of information received from the department, revealing that assessee has received contractual receipts of more than Rs.3 crores on which TDS was also deducted, but could not file the ROI . In this backdrop, the AO reopened the case of the assessee vide notice dated 29.7.2022 u/s. 148A(1)(d) of the Act. However, no one appeared before the AO and the matter was decided ex parte against the assessee after making addition of Rs 26,39,402/- being 8% of the contractual receipts of Rs.3,29,92,530.

3. Aggrieved with the order of the AO, the assessee preferred appeal before the ld. CIT(A). However no one appeared before the CIT(A) and hence the CIT(A) confirmed the order of the AO.

4. Now the assessee has come up in appeal before us, explaining the reasons for non-appearance before the revenue authorities. The ld. AR of the assessee pointed out that the assessee is not conversant with email operation mechanism and has requested the ld. CIT(A) to send the notice of hearing via physical form. The ld. counsel also drawn attention of the Bench to Form 35 to show that a request was made for sending notices via physical mode. Coming to the legality of the proceedings, the ld. counsel pointed out that the impugned assessment year is AY 2015-16 and hence the notice u/s. 148A(1)(d) is time barred in view of the latest judgment of the Hon'ble Supreme Court in the

case of UOI v. Rajeev Bansal, CA No.8629/2024. The Id. counsel also placed reliance on the decision of the coordinate Bench of the Tribunal in the case of Pushpak Realities in ITA No.4812/Mum/2024 dated 7.11.2024 [TS-830-tat-2024 (Mum)].

5. The Id. DR appearing on behalf of the revenue fairly conceded that the impugned order is barred by limitation in view of the judgment of the Supreme Court in the case of Rajeev Bansal (supra).

6. We have heard the rival submissions and perused the material on record. We observe that in this case the first notice u/s. 148 was issued to the assessee on 1.4.2021. This notice was withdrawn by the office of the AO on 16.1.2023. We observe that on 29.7.2022 the AO has issued a notice u/s 148 to the assessee which is germane to the impugned proceedings before us. We observe that the present proceedings are governed by the first proviso to section 149 which has been interpreted by the Hon'ble Bombay High Court in the case of Hexaware Technologies Ltd. v. ACIT, 162 taxmann.com 225 (Bombay). For the sake of reference, the provisions of section 149 which has been interpreted by the Hon'ble Bombay High Court in Hexaware Technologies Ltd. (supra) is reproduced below :-

“149. (1) No notice under section 148 shall be issued for the relevant assessment year,—

- (a) if three years have elapsed from the end of the relevant assessment year, unless the case falls under clause (b);
- (b) if three years, but not more than ten years, have elapsed from the end of the relevant assessment year unless the Assessing

Officer has in his possession books of account or other documents or evidence which reveal that the income chargeable to tax, represented in the form of asset, which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more for that year:

Provided that no notice under section 148 shall be issued at any time in a case for the relevant assessment year beginning on or before 1st day of April, 2021, if such notice could not have been issued at that time on account of being beyond the time limit specified under the provisions of clause (b) of sub-section (1) of this section, as they stood immediately before the commencement of the Finance Act, 2021:”

7. The relevant findings of the Hon’ble Bombay High Court are reproduced below:-

“25. Section 149(1)(b) of the erstwhile provisions provided a time limit of six years from the end of the relevant assessment year for issuing notice under section 148 of the Act. For the relevant assessment year, being Assessment Year 2015-2016, 6th year expired on 31st March 2022. The notice under section 148 of the Act, in the present case, is issued on 27th August 2022, i.e., clearly beyond the period of limitation prescribed in Section 149 read with the first proviso to the said section. This is squarely covered by paragraphs 36 and 37 of New India Assurance (supra) which has been reproduced above in paragraph 23.

26. The purpose of the first proviso to Section 149 of the Act is consistent with the stated object of the government to make prospective amendments in the Act. Accordingly, the proviso provides that up to Assessment Year 2021-2022 (period before the amendment), the period of limitation as prescribed in the erstwhile provisions of Section 149(1)(b) of the Act would be applicable and only from Assessment Year 2022-2023, the period of ten years as provided in Section 149(1)(b) of the Act, would be applicable. The submission of the Revenue to interpret the first proviso to Section 149 of the Act to be applicable only for Assessment Years 2013-2014 and 2014-2015, i.e., for assessment

years where the period of limitation had already expired on 1st April 2021 is not sustainable. The interpretation canvassed by the Revenue is clearly contrary to the plain language of the proviso. When the language in the statute is clear, it has to be so interpreted and there is no scope for interpreting the provision on any other basis. The taxing statute should be strictly construed. [Godrej & Boyce Mfg. Co. Ltd. v. Dy. CIT [2017] 81 taxmann.com 111/247 Taxman 361/394 ITR 449 (SC).

27. The interpretation as canvassed by the Revenue would render the first proviso to Section 149 of the Act redundant and otiose. The time limit to issue notice under section 148 of the Act had already expired on 1st April 2021 for Assessment Year 2013-2014 and 2014-2015, when Section 149 of the Act was amended. Therefore, reopening for Assessment Years 2013-2014 and 2014-2015 had already been barred by limitation on 1st April 2021. Accordingly, the extended period of ten years as provided in Section 149(1)(b) of the Act would not have been applicable to Assessment Years 2013-2014 and 2014-2015, de hors the proviso. It is a settled principle of law that when limitation has already expired, it cannot be revived by way of a subsequent amendment and, hence, for Assessment Years 2013-2014 and 2014-2015 proviso to Section 149 of the Act was not required. **Hence, to give meaning to the proviso it has to be interpreted to be applicable for Assessment Years upto 2021-2022.**”

8. Further we note that the coordinate Bench of ITAT in the case of Pushpak Realities (supra) after referring to the submissions of the Id. ASG filed before the Hon'ble Supreme Court in the case of Rajeev Bansal (supra) has held that AY 2015-16 is barred by limitation. Respectfully following the above decisions of the Hon'ble High Court and coordinate Bench of the ITAT, we hereby quash the present proceedings and hold that the impugned order is barred by limitation. Before parting we would like to mention that no one appeared before the Id. CIT(A), however, there would be no gain in sending back the matter to the file of the Id. CIT(Appeals) for deciding afresh, when all

the facts related to the legal issue are on record. In view of the above, the appeal of the assessee is allowed.

Pronounced in the open court on this 03<sup>rd</sup> day of March, 2025.

Sd/-

( WASEEM AHMED )  
ACCOUNTANT MEMBER

Sd/-

( PRAKASH CHAND YADAV )  
JUDICIAL MEMBER

Bangalore,  
Dated, the 03<sup>rd</sup> March, 2025.

*/Desai S Murthy /*

Copy to:

1. Appellant
2. Respondent
3. Pr. CIT
4. CIT(A)
5. DR, ITAT, Bangalore.

By order

Assistant Registrar  
ITAT, Bangalore.