

IN THE INCOME TAX APPELLATE TRIBUNAL “D” BENCH, KOLKATA
BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER
AND SHRI SANJAY AWASTHI, ACCOUNTANT MEMBER

ITA No. 26/KOL/2025
Assessment Year: 2015-16

Shatakshi Mudra Investment Pvt. Ltd. BC 266, 3 rd floor, Sector-1, Salt Lake City, Bidhannagar, North 24 Parganas, West Bengal-700064. (PAN:AAECS3930L)	Vs	ITO, Ward-5(1), Kolkata
(Appellant)		(Respondent)

Present for:

Appellant by : Ms. Ankeeta Lohia, CA & Sri G. S. Kedia, Advocate
Respondent by : Shri Sailen Samadder, Sr. DR

Date of Hearing : 10.03.2025
Date of Pronouncement : 10.03.2025

ORDER

Per Bench :

This is an appeal filed by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as “the Ld. CIT(A)”] vide order no. ITBA/NFAC/S/250/2024-25/1070140141(1) dated 06.11.2024 passed u/s. 250 of the Income Tax Act, 1961 (hereinafter referred to as “the Act”) for AY 2015-16.

2. Ms. Ankeeta Lohia, CA & Sri G. S. Kedia, Advocate appeared on behalf of the assessee and Shri Sailen Samadder, Sr. DR appeared on behalf of the revenue.

3. It was submitted by the ld. AR that the assessment year involved is assessment year 2015-16. Notice u/s. 148 of the Act in the present case, came to be issued on 23.07.2022 and the assessment came to be completed u/s. 147/144 of the Act along with sec. 144B of the Act on 22.05.2023. It was submitted by the Ld. AR that the notice issued u/s. 148 on 23.07.2022 was barred by limitation in view of the decision of the Hon'ble Supreme Court in the case of Union of India Vs. Rajeev Bansal reported in [2024] 167 taxmann.com 70 (SC) wherein para 19 sub-para (e) and (f) the Hon'ble Supreme Court has held as under:

- e. The Finance Act 2021 substituted the old regime for re-assessment with a new regime. The first proviso to Section 149 does not expressly bar the application of TOLA. Section 3 of TOLA applies to the entire Income-tax Act, including Sections 149 and 151 of the new regime. Once the first proviso to Section 149(1)(b) is read with TOLA, then all the notices issued between 1 April 2021 and 30 June 2021 pertaining to assessment years 2013-2014, 2014-2015, 2015-2016, 2016-2017, and 2017-2018 will be within the period of limitation as explained in the tabulation below:

Assessment Year	Within 3 Years	Expiry of Limitation read with TOLA for (2)	Within six Years	Expiry of Limitation read with TOLA for (4)
(1)	(2)	(3)	(4)	(5)
2013-2014	31-3-2017	TOLA not applicable	31-3-2020	30-6-2021
2014-2015	31-3-2018	TOLA not applicable	31-3-2021	30-6-2021
2015-2016	31-3-2019	TOLA not applicable	31-3-2022	TOLA not applicable
2016-2017	31-3-2020	30-6-2021	31-3-2023	TOLA not applicable
2017-2018	31-3-2021	30-6-2021	31-3-2024	TOLA not applicable

- f. The Revenue concedes that for the assessment year 2015-16, all notices issued on or after 1 April 2021 will have to be dropped as they will not fall for completion during the period prescribed under TOLA;

4. It was submitted that in view of the direction of the Hon'ble Supreme Court in the case of Rajeev Bansal (supra), the notice issued u/s. 148 of the Act is liable to be quashed and consequently the assessment order passed on 22.05.2023 is liable to be quashed.

5. In reply, the Ld. Sr. DR relied on the decision of the Hon'ble Supreme Court in the case of ACIT Vs. Deekay Pine Board (P.) Ltd. [2024] 167 taxmann.com 732 (SC) as also the decision of the Hon'ble Supreme Court

in the case of ITO Vs. Alpesh Hasmukh Sheth [2025] 170 taxmann.com 629 (SC). The Ld. Sr. DR drew our attention to para 4 of the decision of the Hon'ble Supreme Court in the case of Alpesh Hasmukh Sheth (supra) wherein the Hon'ble Supreme Court had restored the issue to the file of the Assessing Officer to examine whether the facts in the case of Rajeev Bansal (supra) applied to the facts in that case. The direction issued by the Hon'ble Supreme Court reads as follows:

"4. The assessing officers will dispose of the objections in terms of the law laid down by this Court. Thereafter, the assessee who is aggrieved will be at liberty to pursue all the rights and remedies in accordance with law, save and except for the issues which have been concluded in the judgment."

6. It was the submission that the issues in the appeal may be restored to the file of the Assessing Officer for verification as to whether the facts of the Rajeev Bansal (supra) applied to the case of the assessee.

7. We have considered the rival submissions. A perusal of the assessment order clearly shows that notice u/s. 148 of the Act has been issued on 23.07.2022 and in view of the decision of the Hon'ble Supreme Court in the case of Asish Agarwal read with CBDT Instruction No. 1 of 2022 dated 11.05.2022, it is clear that the assessment has been done on the basis of the notice issued u/s. 148 on 23.07.2022. The assessment order also refers to a notice issued u/s. 148 on 28.04.2021. However, such notice would not have a play in view of the decision of the Hon'ble Supreme Court in the case of Asish Agrawal in Civil Appeal No. 3005 of 2022. The notice issued u/s. 148 on 23.07.2022 becomes the foundation of the assessment order, which is impugned. A perusal of the decision of the Hon'ble Supreme Court in the case of Rajeev Bansal (supra) and more specifically at para 19 sub-paras (e) and (f) as extracted above clearly show that the notice u/s. 148 of the Act was to be issued at the outer limit of 31.03.2022. In the present case the notice has been issued much after 31.03.2022. In view of the principles laid down by the Hon'ble Supreme

Court in the case of Rajeev Bansal (supra), it is held that the notice issued u/s. 148 is barred by limitation and consequently stands quashed. Consequently, the impugned assessment order, which was reopened u/s. 147 also stands quashed.

8. In the result, the appeal of the assessee stands allowed.

Order dictated and pronounced in the open court.

Sd/-
(Sanjay Awasthi)
Accountant Member

Sd/-
(George Mathan)
Judicial Member

Dated: 10th March, 2025

JD, Sr. P.S.

Copy to:

1. The Appellant: Shatakshi Mudra Investment Pvt. Ltd.
2. The Respondent. ITO, Ward-5(1), Kolkata
3. CIT(A), NFAC, Delhi
4. Pr. CIT
5. DR, ITAT, Kolkata Bench, Kolkata
6. Guard file.

True Copy

By Order

Assistant Registrar
ITAT, Kolkata.