

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

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER
AND
SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER**

**ITA No.6868/M/2024
Assessment Year: 2015-16**

&

**ITA No.6869/M/2024
Assessment Year: 2016-17**

Mr. Jayesh Ramniklal Dedhia B 201 Pratap Heritage, L T Road, Landmark Malabar Jwellers, Borivali West, Mumbai-400092. PAN: AACPD9952G	Vs.	Income Tax Department National Faceless Centre/ACIT 42(1)(1), Kautilya Bhavan, BKC Mumbai - 400051.
(Appellant)		(Respondent)

Present for:

Assessee by : Shri Nishit Gandhi, Ld. A.R.
Revenue by : Ms. Kavitha Kaushik, Ld. Sr. D.R.

Date of Hearing : 27.03.2025
Date of Pronouncement : 27.05.2025

O R D E R

Per : Narender Kumar Choudhry, Judicial Member:

These appeals have been preferred by the Assessee against the order even dated 28.10.2024, impugned herein, passed by the National Faceless Appeal Center (NFAC)/Ld. Commissioner of Income Tax (Appeals) (in short Ld. Commissioner) (in short Ld. Commissioner) u/s 250 of the Income Tax Act, 1961 (in short 'the Act') for the A.Y. 2015-16 and 2016-17.

2. Both these cases under consideration pertains to the Assessee only and having involved legal issues and therefore for the sake of brevity, the same were heard together and are being disposed of by this composite order. For the sake of brevity, first we will decide **ITA No.6868/M/2024.**

3. ITA No.6868/M/2024

In this case, the Assessee has challenged the notice u/s 148 of the Act dated 22.07.2022 for the reopening of the assessment proceedings being barred by limitation and bad in law and therefore the re-assessment carried out in pursuance to such notice dated 22.07.2022 u/s 148 of the Act, is liable to be quashed.

4. As the Assessee has raised the legal ground, which emanates from the material available on record and does not require consideration of exterior material and therefore the legal ground raised qua notice u/s 148 of the Act dated 22.07.2022 being barred by limitation and therefore bad in law, is admitted for hearing/adjudication, in view of the judgment of the Hon'ble Apex Court in the case of National Thermal Power Co. Ltd. vs Commissioner of Income Tax {229 ITR 383 SC, (1997)}.

5. Admittedly, the Hon'ble Apex Court in the case of Union of India vs. Rajiv Bansal (2024) SSC Online (SC) 2693 dealt with the issue "*whether the notice dated 19.07.2022 would be valid for reopening the case/assessment for the cases pertaining to A.Y.2015-16*".

6. The Hon'ble Apex Court, in para no.19(f) of the decision, has categorically held that the Revenue concedes that for the A.Y. 2015-16, all 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 the taxation and other laws (relaxation and amendment of certain provisions) Act, 2020.

7. Thus, respectfully following the observation/concession recorded by the Hon'ble Apex Court in the aforesaid case, notice dated 22.07.2022 u/s 148 of the Act on the basis of which the assessment of the Assessee was reopened and in consequence thereof the reassessment order dated 26.05.2023 passed, is liable to be quashed. **Thus, the same is quashed.**

8. Resultantly, the appeal i.e. **ITA No.6868/M/2024** filed by the Assessee stands allowed.

9. Coming to **ITA No.6809/M/2024**, we observe that in this case, admittedly the notice dated 22.07.2022 has been issued with prior approval of the Ld. Pr. CIT-17, Mumbai, which is in violation to the provision of section 151(ii) of the Act, which empowered the specified authorities, such as Pr. Chief Commissioner or Pr. Director General or Chief Commissioner or Director General of Income Tax, for granting sanction for issuing the notices u/s 148 and 148A of the Act, in the cases where more than 3 years have been elapsed from the end of the relevant assessment year. Thus, not sanctioning the issuance of notice u/s 148 of the Act by the specified authority as enshrined u/s 151(ii) of the Act, would entail the notice u/s 148 of the Act and in consequence thereof the assessment order passed by the AO, as invalid and bad in law and therefore the notice issued u/s 148 of the Act dated 22.07.2022 and in consequence thereof the assessment order dated 26.05.2023, are quashed.

10. Thus, the appeal i.e. **ITA No.6809/M/2024** filed by the Assessee stands allowed.

11. In the result, both the appeals under consideration stands allowed.

Order pronounced in the open court on 27.05.2025.

**Sd/-
(PRABHASH SHANKAR)
ACCOUNTANT MEMBER**

**Sd/-
(NARENDER KUMAR CHOUDHRY)
JUDICIAL MEMBER**

* Kishore, Sr. P.S.

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.