

IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "D", MUMBAI

**BEFORESHRI VIKRAM SINGH YADAV, ACCOUNTANT MEMBER AND  
SHRI ANIKESH BANERJEE, JUDICIAL MEMBER**

**ITA No.6695/Mum/2024  
(Assessment year: 2015-16)**

<b>Mukesh Kumar Bhawarlal Jain</b> Shop No.11, 215/217, Kalbadevi Road, Abhinandan Market, Ground Floor Mumbai-400 002 <b>PAN : AIMPJ2447C</b>	<b>vs</b>	<b>Assessing Officer</b> <b>NFAC, Assessment Unit, Delhi /</b> <b>ITO 23(2)(6),</b> Piramal chamber, Mumbai-12
<b>APPELLANT</b>		<b>RESPONDENT</b>

Assessee by : Shri Jalaj Prakash (Adv), Shri Suchek  
Anchliya  
Respondent by : Shri Annavaram Kosuri(SRAR)  
Date of hearing : 04/06/2025  
Date of pronouncement : 06/06/2025

**ORDER**

**Per Anikesh Banerjee (JM):**

Instant appeal of the assessee is directed against the order of the National Faceless Appeal Centre (NFAC), Delhi [in short, 'Ld.CIT(A)] passed under section 250 of the Income Tax Act, 1961 (in short, 'the Act'), for A.Y. 2015-16, date of order 23/10/2014. The impugned order was originated from the order of the Assessment Unit, Income-tax Department (for brevity, 'the Ld.AO') passed under

section 147 r.w.s. 144 read with section 144B of the Act, date of order 26/05/2023.

2. The brief facts of the case are that the assessee's case was reopened under section 148 by issuing notice dated 28/04/2021. During, the assessment proceeding the Ld.AO found that the assessee has deposited cash amount to Rs.2,05,19,450/- in M/s Sri Renuka Mata Multistate Urban Cooperative Credit Society Ltd. During the assessment, the assessee was asked to explain the source of the deposit of cash with documentary evidence, but the assessee was unable to do so. Accordingly, the assessment was completed under section 144 of the Act. The Ld.AO considered the assessee's returned income, amount to Rs.2,28,750/- and after deducting the same from cash deposited in Sri Renuka Mata Multistate Urban Cooperative Credit Society Ltd, the balance amount which comes to Rs.2,02,90,700/- was added back with the total income of the assessee. The aggrieved assessee filed an appeal before the Ld. CIT(A). The Ld.CIT(A) upheld the order of the Ld. AO. Being aggrieved, the assessee filed an appeal before us.

3. The Ld.AR argued and first took up the legal ground related to assumption of jurisdiction by the Ld.AO for reopening the assessment under section 147 of the Act. The Ld.AR submitted a chart related to issuance of notice under section 148 of the Act and finally, the order passed under section 148A(d) of the Act and the notice was issued under section 148 of the Act, the dates and events are tabulated as follows:-

<i>Sr.No.</i>	<i>Particulars</i>	<i>AY 2015-15</i>
1	<i>Original notice issued u/s 148 of the Act – Old provisions</i>	<i>28/04/2021</i>
2	<i>Last date to issue notice under amended provision of the Act as per the 1<sup>st</sup> Proviso to section 149 of the Act</i>	<i>31/03/2022</i>
3	<i>Order of the Hon'ble Supreme Court in the case of Union of</i>	<i>04/05/2022</i>

	<i>India vs Ashish Agarwal</i>	
4	<i>Show cause notice was issued in accordance with the decision in the case of Union of India vs Ashish Agarwal reported in (2022) 444 ITR 1 (SC) and the appellant was granted time upto 10.06.2022</i>	27/05/2022
5	<i>Order passed by the Ld. JAO u/s 148A(d) of the Act</i>	22/07/2022
6	<i>Notice issued u/s 148 of the Act – New Provisions</i>	22/07/2022

The Ld. AR, during the course of arguments, submitted that the notice issued by the Ld. AO for A.Y. 2015-16 has been quashed by the Hon'ble Supreme Court in the case of **Union of India v. Rajeev Bansal [2024] 167 taxmann.com 70 (SC)**. The issue stands squarely covered by the decision of the Co-ordinate Bench of the ITAT, Mumbai Bench 'B', in the case of **ACIT, Circle 19(1) v. Manish Financial, in ITA Nos. 5055 & 5050/Mum/2024**, order dated **02.12.2024**. The relevant portion of the said order is reproduced below:

*"6. We heard the parties and perused the material on record. In assessee's case, the AO issued the original notice under section 148 dated 29.06.2021 for AY 2015- 16 and consequent to the directions given by the Hon'ble Supreme Court in the case of Ashish Agrawal (supra), the said notice was deemed as notice issued under section 148A(b). The AO after passing the order under section 148A(d) issued the notice under section 148 dated 29.07.2022. The contention of the assessee is that the said notice is barred by limitation as per the first proviso to the un-amended provisions of section 149(1) as has been confirmed by the decision of the Hon'ble Supreme Court in the case of Rajeev Bansal (Supra). The relevant observations of the Hon'ble Supreme Court reads as under –*

*19. Mr N Venkataraman, learned Additional Solicitor General of India, made the following submissions on behalf of the Revenue: (a) to (e)\*\*\*\**

*(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;*

*\*\*\*\*\**

*46. The ingredients of the proviso could be broken down for analysis as follows:*

- (i) no notice under section 148 of the new regime can be issued at any time for an assessment year beginning on or before 1 April 2021;
- (ii) if it is barred at the time when the notice is sought to be issued because of the "time limits specified under the provisions of" 149(1)(b) of the old regime.

**Thus, a notice could be issued under section 148 of the new regime for assessment year 2021-2022 and before only if the time limit for issuance of such notice continued to exist under section 149(1)(b) of the old regime.**

49. The first proviso to Section 149(1)(b) requires the determination of whether the time limit prescribed under section 149(1)(b) of the old regime continues to exist for the assessment year 2021-2022 and before. **Resultantly, a notice under Section 148 of the new regime cannot be issued if the period of six years from the end of the relevant assessment year has expired at the time of issuance of the notice.** This also ensures that the new time limit of ten years prescribed under section 149(1)(b) of the new regime applies prospectively. For example, for the assessment year 2012-2013, the ten year period would have expired on 31 March 2023, while the six year period expired on 31 March 2019. Without the proviso to Section 149(1)(b) of the new regime, the Revenue could have had the power to reopen assessments for the year 2012-2013 if the escaped assessment amounted to Rupees fifty lakhs or more. The proviso limits the retrospective operation of Section 149(1)(b) to protect the interests of the assesses.

7. This issue of notice under section 148 issued for 2015-16 being time barred is considered by the coordinate bench in the case of Pushpak Realities Pvt. Ltd.(supra) and it is held that

\*\*\*\*\* 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 Id. CIT (A) for quashing the notice."

8. A combined reading of the above observations of the Hon'ble Supreme Court and the findings of coordinate bench makes it clear that the test for checking the validity of notices issued under section 148 under new regime for AYs 2021-22 or prior years is whether the period of six years has expired at the time of issue of such notice and in that case the notice under section 148 becomes invalid. These

*observations also makes it clear that the time limit of ten years as per the amended provisions of section 149(1)(b) can be applied only prospectively. In assessee's case when we apply this test for AY 2015-16, the period of six years has expired on 31.03.2022 and therefore the notice dated 29.07.2022 under section 148 of the Act for AY 2015-16 is invalid since it is barred by limitation. Accordingly the assessment completed under section 147 of the Act is liable to be quashed.*

*9. Since we have already quashed the order under section 147 based on the legal contention of notice being time barred the other legal contentions raised by the assessee in the CO have become academic not warranting any adjudication. Accordingly the CO is partly allowed.*

*10. We have quashed the order of re-assessment for AY 2015-16 considering the legal contentions raised by the assessee in the C.O. therefore the appeals of the revenue for AY 2015-16 contending the relief granted by the CIT(A) on the merits of the issues have become infructuous. Accordingly, the appeals of the revenue are dismissed.”*

4. The Ld. DR advanced arguments and filed written submission, which is taken on record. The Ld. DR placed reliance on paragraph 112 of the judgment in **Rajeev Bansal** (supra) and supported the orders passed by the revenue authorities.

5. We have heard the rival submissions and perused the material available on record. We find that the facts of the assessee's case are identical to those in the judgment of the Hon'ble Supreme Court in **UOI v. Rajeev Bansal** (supra). The Coordinate Bench of the ITAT, Mumbai, in the case of **Manish Financial** (supra), has also followed the said judgment. Although the Ld. DR has relied upon paragraph 112 of the judgment in **Rajeev Bansal** (supra), we find that the said observation is not applicable to A.Y. 2015–16. Accordingly, the ratio laid down by the Hon'ble Supreme Court is applicable to the present case. In view of the above, the appellate order is hereby set aside, and the addition of Rs. 2,02,90,700/- made by the Ld. AO is deleted.

6. The Ld. AR had raised an additional ground concerning the non-issuance of a Document Identification Number (DIN); however, the said ground was not pressed during the course of hearing. Accordingly, the appeal of the assessee is allowed, and all other grounds are kept open for academic purposes.

7. In the result, the appeal of the assessee bearing **ITA No.6695/Mum/2024** is allowed.

Order pronounced in the open court on 06<sup>th</sup> day of June, 2025.

Sd/-

(VIKRAM SINGH YADAV)  
ACCOUNTANT MEMBER  
Mumbai, दिनांक/Dated: 06/06/2025  
Pavanan

sd/-

(ANIKESH BANERJEE)  
JUDICIAL MEMBER

**Copy of the Order forwarded to:**

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्त CIT
4. विभागीय प्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT,  
Mumbai
5. गार्डफाइल/Guard file.

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BY ORDER,

(Asstt. Registrar), ITAT, Mumbai